

## European Rule of Law Mechanism: input – Czech Republic

### I. Justice System

- 1. Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the justice system (if applicable)*

Please see the answer to the question 2. b).

#### A. Independence

- 2. Appointment and selection of judges, prosecutors and court presidents (incl. judicial review)*

##### a) Judges

**Decree No. 206/2023 Coll. of 26 June 2023 amending Decree No. 516/2021 Coll. on the professional judicial examination, selection and training of judicial candidates, selection of candidates for the office of judge, selection of court presidents and amending Decree No. 37/1992 Coll. on the rules of procedure for district and regional courts, as amended**

The decree amends one of the implementing decrees to Act No 6/2002 Coll., on courts, judges, judges and the state administration of courts, as amended, which regulates the procedure for conducting selection procedures for the position of judicial candidate and for the position of judge, as well as the procedure for selecting court presidents, so that the legislative text corresponds to the knowledge gained from practice during the almost one-year application of the new system of selecting judges in practice.

The changes introduced by the amended Decree relate in particular to the establishment of a uniform level of difficulty of the written part of the selection procedures, a more detailed specification of the objectives of the oral parts of the selection procedures, the regulation of the inadmissibility of applications to the selection procedures for the position of judicial candidate as well as for the position of judge, or the establishment of a rule of transferability of the result of a successful candidate for the position of judge to other selection procedures for the position of judge at the same regional court.

The Decree entered into force on 1 July 2023, building up on the best practices collected and further solidifying the whole system.

**Draft Act amending Act No. 6/2002 Coll., on Courts, Judges, Judges and the State Administration of Courts and on Amendments to Certain Other Acts (Act on Courts and Judges), as amended, and other related acts**

This proposal is part of the reform 2, component 4.3 under the Czech **Recovery and Resilience Plan (RRP)**. This reform contributes to the measures related to the transparent selection of judges. The aim of this reform is to establish a transparent and uniform system of recruitment and selection of judges and judicial officeholders based on precise, objective and uniform criteria. The aim of the proposal is to streamline the judicial proceedings in which the lay judges are involved by concentrating their activities on court proceedings concerning serious violent crimes. The amendment is proposed to take effect on 1 July 2024.

## b) Prosecutors

The legislative process of the draft reform of the Public Prosecutor's Office Act following GRECO evaluation and presented by the Ministry of Justice in June 2019 has not been completed yet. An amended draft approved by the 2021 Government on 24 May 2023 the amendment was presented to the Parliament of the Czech Republic as a bill no. 463.<sup>1</sup> The first and the second readings of the text in the Chamber of Deputies took place. The amendment responds to recommendations by GRECO as well as the Rule of Law Reports on the Czech Republic. Specifically, the following changes are proposed:

- introduction of the removability of chief prosecutors only in disciplinary proceedings (except for the Supreme public prosecutor) and introduction of disciplinary offences of the chief prosecutors,
- introduction of the conditions for the removal of the Supreme public prosecutor from the office (on the proposal of the Minister of Justice the Government removes the SPP from the office if by a culpable serious breach of his or her duties, or by his or her culpable grossly improper conduct, he or she has fundamentally undermined confidence in the proper functioning of the SPP or the prosecution system, in particular confidence in the lawfulness of their actions or in their impartiality or professionalism, or has fundamentally undermined the dignity and respectability of the office of the SPP or the prosecution system).
- introduction of the possibility for the SPP to bring an action under the Judicial Administrative Code against the decision on the removal from the office.
- introduction of the length of the terms of office of the chief public prosecutors including the Supreme public prosecutor,
- prerequisite for the appointment of the Supreme public prosecutor will be legal experience of at least 10 years, of which at least 6 years as a public prosecutor. Such person can be appointed only once,
- introduction of basic requirements for the person of a chief public prosecutor (professional knowledge and experience, moral qualities guaranteeing the proper performance of the function, the Supreme public prosecutor should fulfil the requirement for managerial skills),
- the selection of high, regional and district chief prosecutors will be done exclusively through the selection procedures, only in exceptional cases may the Minister of Justice refuse to appoint a proposed candidate on the grounds that the person does not provide guarantees for the proper performance of the function.

Therefore, we continue to advance the reform in accordance with its original aims.

### ***3. Irremovability of judges; including transfers (incl. as part of judicial map reform), dismissal and retirement regime of judges, court presidents and prosecutors (incl. judicial review)***

No changes with regard to judges and presidents of courts. As for prosecutors please see the answer to the question 2 and previous reports.

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<sup>1</sup> <https://www.psp.cz/sqw/historie.sqw?o=9&t=463>

#### **4. Promotion of judges and prosecutors (incl. judicial review)**

There were no legislative changes with regard to promotion of judges following the adoption of the new amendments to the Act on Court and Judges. As for prosecutors, please see the answer to the question 2.

#### **5. Allocation of cases in courts**

There were no legislative changes concerning the allocation of cases in courts.

#### **6. Independence (including composition and nomination and dismissal of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)**

There were no changes with regard to the independence and powers of the body tasked with safeguarding the independence of the judiciary.

#### **7. Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal/civil (where applicable) liability of judges (incl. judicial review)**

**Draft Act amending Act No. 7/2002 Coll., on proceedings in the cases of judges, prosecutors and bailiffs, as amended, and other related acts:**

**This amendment is part of the reform 2, component 4.3 under the Czech RRP.** The aim of the amendment is to strengthen the guarantees of the legality of disciplinary proceedings in the cases of judges, prosecutors and bailiffs by introducing an instance review on the basis of an appeal and to increase the efficiency of the proceedings through several measures (extension of the circle of disciplinary courts, introduction of an appeal review, new composition of disciplinary chambers, establishment of a unifying disciplinary chamber of disciplinary courts of appeal for the purpose of unifying case law, review of reproach by the disciplinary court, the establishment of a procedure for the coordination of disciplinary petitioners, the introduction of the authorization of the Minister of Justice to file remedies in disciplinary proceedings where he was not a party, the disclosure of certain evidence, the extension of the subjective time limit for filing a disciplinary petition from 6 months to 9 months, the proposed effect of certain facts on the running of the time limits for filing a disciplinary petition and for the extinction of disciplinary liability, the limitation of the payment of the salary of a judge or prosecutor who has been temporarily suspended from office, the extension of the range of cases in which a judge or prosecutor may be required to pay recourse under Act No. 82/1998 Coll.).

The amendment is based on the recommendations of the Group of States against Corruption (GRECO), which were given to the Czech Republic as part of the 4th round of evaluation.

The proposal also includes amendments that are not directly related to disciplinary law (terminological changes concerning the composition of the selection committee for the office of president of a supreme, regional and district court and facilitating access of courts to data from the public administration information system, basic registers and agency information systems).

Anticipated entry into force on 1 January 2025; provisions concerning the appointment of the members of the panels of the new disciplinary courts and the replacement of these members as early as 1 July 2024.

**8. Remuneration/bonuses/rewards for judges and prosecutors, including observed changes (significant and targeted increase or decrease over the past year), transparency on the system and access to the information**

As part of a general effort to consolidate public finances in the light of the economic consequences of the COVID-19 pandemic and current geopolitical events, the Parliament has, on the Government's proposal, decided on a modification of the starting amount for the determination of judges' salaries, as defined by the Salary Act. Thus, starting in January 2024, the starting amount will be equal to the Czech average salary recorded in the calendar year before the last (i.e. in 2022) multiplied by a factor of 2.822, rather than by a factor of 3. The change will also affect the determination of the prosecutors' salaries, which is based on a starting amount defined as 90% of the starting amount for judges. Due to the increase of Czech average salary between 2021 and 2022, the change will not result in a decrease of the salaries, which will either stay at the 2023 level or increase negligibly due to rounding. Similarly, the salaries of the assistant personnel in justice and public prosecution increase constantly since 2018.

**9. Independence/autonomy of the prosecution service**

Please see the answer to the question 2.

**10. Independence of the Bar (chamber/association of lawyers) and of lawyers**

**Draft Act amending Act No. 85/1996 Coll., on advocacy, as amended:**

The aim of the amendment is to strengthen the protection of the confidentiality of communication between attorney and client as one of the important attributes of the right to a fair trial, to enable attorneys to participate in the assembly of the Czech Bar Association not only in person but also with the use of technical means of distance access, to enable the part-time legal practice as an advocate's trainee, to clarify the legal regulation and to extend the protection of attorneys and their clients against provision of legal services by persons who are not legally authorised to do so or who carry out such activities in an illegal manner. In addition, the lawyer's procedure in connection with the official verification of the client's electronic signature (so-called eLegalization) is established.

The proposed legislation is expected to take effect on 1 July 2024, with the exception of the provisions regulating eLegalization, which will take effect on 1 January 2025.

**11. Significant developments capable of affecting the perception that the general public has of the independence of the judiciary**

See the answer to the question 2. The mentioned amendment promoting transparency has a potential to ultimately affect the perception of general public towards judiciary/prosecution and its independence.

**B. Quality of justice**

**12. Accessibility of courts (e.g. court/legal fees, legal aid, language)**

**Act no 349/2023 Coll. amending Act No. 85/1996 Coll., on advocacy, as amended**

**Decree no 381/2023 Coll. Of 15 December 2023 amending Decree No. 120/2018 Coll. on establishing the forms of the application for the appointment of an advocate and the form of the initiative to provide a one off legal advice**

The draft amendment to the Advocacy Act and to the Decree No. 120/2018 Coll. responds to the Constitutional Court's decision No. Pl. 44/21 of 24 January 2023 (No. 38/2023 Coll.), by which the Constitutional Court annulled part of the provisions of Section 18c(1) of Act No. 85/1996 Coll., on advocacy. Section 18c(1) of the Advocacy Act regulated the right to have the Czech Bar Association appoint an attorney to provide legal services to applicants who were unable to secure legal assistance independently (the repealed legislation allowed such appointment of an attorney only to applicants whose income and financial circumstances justified it, which the Constitutional Court found unconstitutional).

The aim of the adopted amendments is to expand the circle of persons who are allowed to apply for the appointment of an advocate to the Czech Bar Association in order to protect their rights and legitimate interests.

The Act and the Decree entered into force on 1 January 2024.

### ***13. Resources of the judiciary (human/financial/material)***

As part of a general effort to consolidate public finances in the light of the economic consequences of the COVID-19 pandemic and current geopolitical events, the Ministry of Finance has decided to reduce the total number of non-judge court staff posts by 120, to 9511. The maximum total number of judge posts has remained unchanged at 3063.

No changes were decided as far as the total numbers of prosecutors and prosecutorial staff are concerned.

In December 2023, the Ministry has launched a project entitled “**Strengthening the efficiency of the judicial system in the Czech Republic**” supported by the Technical Support Instrument of the European Commission. The objective of the project is to obtain a methodology for the collection of relevant empirical data on labour intensity of different court activities, as well as an initial dataset to be subsequently used in the determination of staffing needs of individual courts. The use of empirical data should allow for a more efficient allocation of personnel resources, a balanced workload for both judges and court staff, as well as an increase in the equality of access to justice across the country. The scheduled project duration is 20 months.

### ***14. Training of justice professionals (including judges, prosecutors, lawyers, court staff, clerks/trainees)***

There are no significant changes in training of judges, public prosecutors and judicial personnel, in comparison with the information already provided in the previous reports.

### ***15. Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, procedural rules, access to judgments online)***

The developments connected with the digitalisation of justice are linked to the implementation of investment 4 within component 1.2 Digital Public Administration System, under the RRP.

### **Decree No. 403/2022 Coll., on the publication of court decisions, as amended**

The Decree is an implementing regulation to Act No. 6/2002 Coll., on Courts, Judges, Judges and the State Administration of Courts and on Amendments to Certain Other Acts, as amended by Amendment No. 218/2021 Coll. (Section 118a(2)).

Its aim is to establish the categories of final court decisions to be published by district, regional and high courts in the Database of Decisions of District, Regional and High Courts. The Decree also sets out the extent to which the decisions are to be published. It also lays down the rules of procedure to be followed in publishing those decisions.

In view of the expected gradual process of technical adjustment of the entire system of publication of court decisions, the split-effectiveness of the legislation has been established. First, with effect from 1 January 2023, the district courts shall publish final judgments on the merits in civil cases and final judgments on the merits in criminal cases, but only with respect to the offences of accepting bribes, bribery, and indirect bribery. The regional and high courts are obliged to publish decisions only in criminal cases in relation to the above-mentioned offences where the appeal decision dismissed the appeal against the decision of the court of first instance concerning those offences or reversed, even in part, the decision of the court of first instance, except where the decision has been annulled, even in part, and remitted for a new hearing.

Then, in a second stage, from 1 July 2024, the list of published decisions will subsequently be extended to include first instance decisions of regional courts in civil matters and decisions of regional and high courts on appeals against civil decisions that are dismissed or lead to, even if only partially, a change in the decision of the court of first instance. This will apply unless the decision of the court of first instance is annulled, even in part, and remitted to the lower court for a new hearing. The Decree also provides for a category of decisions to which the obligation to publish will not apply, for example decisions on divorce without ascertaining the causes of dissolution of marriage, in short - decisions with no information value to the public.

These categories of decisions were to be supplemented by pseudonymised decisions on the merits in the agendas listed in Annex 2 to the Decree (final decisions of regional and high courts on the merits). The effectiveness of the second stage was postponed<sup>2</sup> due to the fact that the Ministry of Justice is currently putting into operation a new information system designed for pseudonymisation of published final court decisions, which has been developed according to the latest technological and security standards. In this context, it is also working on modifications to the existing court information systems, which are technologically outdated and therefore require a number of necessary modifications to be connected to the new information system. The connection of the new information system to the existing court information systems is necessary in order to ensure that the courts do not face an increased administrative burden in relation to the publication of decisions and the use of the new tool. The connection is expected to be operational in the second quarter of 2024.

#### **Outcomes of the project „eJustice 2020 – part eISIR“ (elektronický soudní spis)**

The project “eJustice 2020 – part eISIR” should provide a set of application modules and components that will be the foundation for the future digitisation of justice. **The main output is the electronic case management system (eSpis)** and the so-called “Centrum Justice”, which contains other central justice modules, that will be reusable for other future agendas. At the end of 2023, project outputs have been accepted by the MoJ and a roll-out to the courts will be realised in 2024.

#### **Electronic information management of the prosecutor's office – Project ELVIZ (Elektronické vedení informací státního zastupitelství)**

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<sup>2</sup> Decree No. 382/2023 Coll.

A related eJustice project is project ELVIZ. The project aims to digitise the prosecution's agendas and dispose of the electronic case management system at all levels of the prosecution. In 2023, funding for the project has been secured and in early 2024, the final tender documentation will be prepared for the call for tenders and the project will move to the implementation phase.

### **Implementation of the ETR Lite in courts**

In 2023, a pilot phase of EDR Lite was launched in selected courts. Thanks to this, the courts could access the non-public information system "Evidence trestního řízení" operated by the Police of the Czech Republic.

In December 2023, it was agreed that the operation of EDR Lite would be extended to the courts on a widespread basis and would move towards standard use.

### ***16. Use of assessment tools and standards (e.g. ICT systems for case management, court statistics and their transparency, monitoring, evaluation, surveys among court users or legal professionals)***

The case management systems of the courts, paired with a dedicated system for statistical data management (CSLAV), generate two types of statistical data: reports ("výkazy") and statistical sheets ("statistické listy").

The reports track, in particular, the number of incoming, resolved and unresolved cases for each decision-maker, chamber and the court as a whole. The data are used by court presidents and vice presidents for efficiency monitoring and caseload management. Data at court level are simultaneously compiled by the Ministry of Justice and are made available to the public, both through pre-set formats available on the Ministry's website and in a commented statistical report published annually. The data are further used by the Ministry for analytical and research purposes, in particular for the determination of staffing needs of individual courts.

Statistical sheets serve to collect data on final decisions in the principal domains (criminal, civil, commercial, family, insolvency, administrative). They are compiled by the court staff on the basis of data from the case management system and are transmitted to the Ministry of justice through CSLAV. The sheets comprise more detailed data on the procedural matters (e.g. length of proceedings, number of appeals), substantive issues (e.g. outcome of the case, legal qualification, criminal sanctions imposed, sums awarded) and the parties (e.g. physical or legal person, link between the accused and the victim). The data are made available to the public online, through a search engine, and are further used by both the Ministry and external researchers for analytical and research purposes, including the drafting of the above-mentioned annual statistical report. The Ministry is currently also preparing a series of dashboards which should serve as a more accessible and user-friendly way of presenting statistical data from statistical sheets to the public on the Ministry's website. All of this should substantially contribute to evidence-based decisions related to the operation of individual courts. See also answer to question 13 concerning the project "Strengthening the efficiency of the judicial system in the Czech Republic" supported by the Technical Support Instrument of the European Commission.

**17. Geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialisation, in particular specific courts or chambers within courts to deal with fraud and corruption cases.**

As of January 2024, following a modification of the Decree no. 37/1992 Coll., on the Rules of Procedure for District and Regional Courts, court presidents should provide, where relevant and subject to staffing levels, for a criminal chamber specialising in offences against human dignity in the sexual sphere and the offences of trafficking in human beings pursuant to section 168(1)(a) and 168(2)(a) of the Criminal Code, abuse of a person entrusted to one's care (section 198 of the Criminal Code), abuse of a person living in a common dwelling (section 199 of the Criminal Code), enticement to sexual intercourse (section 202 of the Criminal Code) and the international judicial cooperation agenda. Such specialised chambers might further increase the efficiency in cases that are not only complex and sensitive, but inherently linked to the fundamental human rights.

**C. Efficiency of the justice system**

**18. Length of proceedings**

In general, the judicial system in the Czech Republic is efficient, as shown by the comparative CEPEJ reports and EU Justice Scoreboard, as well as the annual statistical report of the courts published by the Ministry of Justice, available at <https://justice.cz/web/msp/statisticke-udaje-z-oblasti-justice>. The length of proceedings in civil and commercial matters has essentially returned to pre-COVID-19 levels. The development in administrative proceedings is also positive. The number of oldest cases is significantly reduced, and thus the length of the proceedings is also shortened.<sup>3</sup>

**Other – please specify**

Referring to our last inputs, projects of e-Sbírka and e-Legislativa aim to facilitate the preparation and processing of draft legislation as well as an access to the adopted legislation for the general public. The beginning of its official operation is linked to the moment when Act No.222/2016 Coll. on the Collection of Laws and International Treaties takes effect. The e-Sbirka part has entered the full production phase on 1 January 2024. Due to time needed for commissioning trial phase of the e-Legislativa part of the system, the digital drafting of legislation will be implemented in practice gradually from 1 July 2024 to 1 January 2025. Due to interim provisions adopted by the Parliament in November 2024, the drafting process will be fully digitalized as of the start of the new electoral period of the Chamber of Deputies.

**II. Anti-corruption framework**

**19. Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the anti-corruption framework (if applicable)**

- Recommendation to strengthen the integrity framework for members of Parliament, in particular by complementing the existing rules as regards revolving doors and lobbying – please see answers to q. 24 and 25. Resolution No. 38 of the Mandate and Immunity Committee of the Chamber of Deputies<sup>4</sup>

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<sup>3</sup> <https://www.nssoud.cz/aktualne/tiskove-zpravy/detail/ve-spravnim-soudnictvi-ubyva-nedodelku-a-zkracuje-se-delka-rizeni>

<sup>4</sup> Usnesení č. 38 o zřízení pracovní skupiny ke Kodexu chování poslance a jeho aplikaci (20. června 2023). See: <https://www.psp.cz/sqw/text/text2.sqw?idd=229211>



established a working commission on the Code of Conduct for Deputies and its application on 20 June 2023.

- Recommendation to complete the revision of legislation on conflicts of interest, including by clarifying the definition of beneficial ownership and progress with further reforms relating to transparency of information on media ownership. – please see answers to q. 25.

The Police is committed to further improving support to all police officers investigating criminal offences. In particular in relation to serious crime, including high-level corruption cases, the analytical abilities are important. In this regard, the Police continues developing the architecture of the single analytical tool (see Country Chapter 2023, page 10) and the launch of a pilot project is planned for the end of 2024.

The Police continues to fulfil the task set in the Action Plan for Combating Organised Crime (see Country Chapter 2023, page 9 and 10) to analyse the functioning and to modify the structure of the Criminal Police and Investigation Service. These changes are intended to strengthen the investigation of economic crime, including corruption, in Prague and other regions. The capacity for operational detection of corruption at regional level in different areas of society is also to be strengthened. On the basis of an ongoing analysis, the Criminal Police and Investigation Service is making partial evaluations and taking specific partial measures.

**A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)**

***20. List any changes as regards relevant authorities (e.g. national agencies, bodies) in charge of prevention, detection, investigation and prosecution of corruption and the resources allocated to each of these authorities (the human, financial, legal, and technical resources as relevant), including the cooperation among domestic and with foreign authorities. Indicate any relevant measures taken to effectively and timely cooperate with OLAF and EPPO.***

In 2023, in accordance with the Law No. 171/2023 Coll, on Protection of Whistleblowers (for further information see question no. 26) the Ministry of Justice became the authority responsible for the agenda of whistleblower protection as well as for operating the whistleblower external reporting mechanism. In accordance with these changes the Conflict of Interests and Anti-Corruption Department of the Ministry of Justice was supplemented with additional 3 working positions. At the same time, 1 civil servant ended her limited-time period contract at the end of October 2023, as the project the civil servant was assigned to successfully ended. At the end of the year 2023 the Conflict of Interests and Anti-Corruption Department had 24 working positions (both civil servants and labour code employees). Additionally, there were 2 employees with agreement-based work contract that ended in December 2023.

As regards the competent authorities and the resources allocated to them, there have been no changes from the original information.

As regards the OLAF's recommendations (Country Chapter 2023, page 10), the Police has taken an action upon them. Three cases were handled by the National Centre against Organised Crime (NCOZ) and two of them were merged into one file. The other two cases were dealt with by Regional Police Directorates. The Police conducted standard inquiries as regards these cases. These recommendations

were, in the end, adjourned because there was no suspicion of a criminal offence. (Such decisions to adjourn must be reported to the public prosecutor for review.)

However, these cases should not be considered as representative examples of efficient and successful cooperation between the OLAF and the Police in many other investigations. In particular, NCOZ routinely provides information to OLAF about ongoing national criminal investigations. NCOZ also cooperates in cases of OLAF inspections in the Czech territory in order to prevent interference with ongoing national criminal cases. The same applies to cooperation with the EPPO in detecting and prosecuting the damage to EU's financial interests, where almost half (more than 80) of the suspicions were confirmed to the degree which led to the initiation of criminal proceedings (i.e. the Police has decided that there was a reasonable suspicion that a particular person had committed a particular crime). **It is apparent from the EPPO 2022 annual report<sup>5</sup> that the Czech Republic is among the Member States that have an excellent record of active cooperation with the EPPO<sup>6</sup> in the fight against damage to the EU's financial interests.**

In addition to areas covered in previous periods, it is essential to focus also on obstacles, difficulties and delays that law enforcement and prosecution face when they need to obtain either police or judicial cooperation from other states. These long-standing issues have cumulative negative impact on the ability of law enforcement and prosecution to proceed swiftly and effectively in combating complex crimes, especially organized and economic crime, including many cases of corruption and fraud against EU interests. As the cooperation of other countries is necessary, these issues usually cannot be solved by a single country acting alone. **While the EU instruments for cross-border cooperation do normally offer a better standard of handling investigators' requests compared with rather basic rules for international cooperation, practice indicates that even within EU there are problems both on systemic level and within certain individual countries. Therefore, no matter how swift the domestic investigation is, its final pace frequently depends on how quickly and effectively the missing information is obtained from other countries. Given their length and rather technical nature, more detailed descriptions and examples are given in an annex.**

During 2023, the Central Contact Point of AFCOS established closer cooperation with EPPO. EPPO was implemented as part of the AFCOS network. This cooperation includes training of providers of financial aid and control authorities, with particular emphasis on early detection of possible crime, information exchange and prior consultations. Crime detection is carried out at an early stage, at the stage of ongoing controls, when the EPPO can already act within its mandate. The probability of recovering misused funds is then much higher.

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<sup>5</sup> <https://www.eppo.europa.eu/en/news/annual-report-2022-eppo-puts-spotlight-revenue-fraud>, pages 24-25

<sup>6</sup> The EPPO's recent press releases show significant criminal cases in the Czech Republic. These include the submission of a proposal to the court for a plea bargain in a criminal case of subsidy fraud for the expansion of a technology centre (report of 14 December 2023), the submission of a proposal for indictment against a businessman for subsidy fraud and money laundering in an IT project (report of 1 December 2023), the initiation of criminal prosecution (NCOZ) against 7 individuals and 3 companies for VAT fraud with damage of more than EUR 50 million (3 November 2023), the case of conviction of 2 natural persons for subsidy fraud in a social entrepreneurship project (17 August 2023), the case of initiation of criminal prosecution of 3 natural persons for subsidy fraud in the manipulation of a public contract of the Museum of Patrimony in Olomouc (16 June 2023), the initiation of criminal prosecution against 16 defendants in the case of subsidy fraud in the amount of EUR 3 million for the acquisition of production machinery (16 June 2023) and other cases.

**21. Safeguards for the functional independence of the authorities tasked with the prevention and detection of corruption.**

No changes from information in the 2023 Report. Cooperation between relevant authorities and allocated resources remain at a good level, as also reported in the previous Reports.

**22. Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please provide relevant objectives and indicators.**

Information on implementation of relevant government strategic anti-corruption document and its measures, namely of Anti-Corruption Action Plan for 2023-2024, regarding the period of 2023 will be submitted to the Government in March 2024. For important measures see also questions no. 23-27.

**B. Prevention**

**23. Measures to enhance integrity in the public sector and their application (including as regards incompatibility rules, revolving doors, codes of conduct, ethics training). Please provide figures on their application.**

In 2023 the Czech Republic successfully completed the reform 4.3.1. Protection of whistle blowers within the component 4.3. Anti-corruption reforms of Czech RRP. For more information see question no. 26.

On 31 October 2023, the multi annual Project to Strengthen the Fight against Corruption co-funded by the EEA and Norway Grants was successfully concluded. The aims of the project were to improve awareness of complex corruption-related problems within the Czech Republic; to prepare foundation for creation and strengthening the judges' and prosecutors' codes of conduct; to improve whistleblower protection; and to increase the public sector's (judges, prosecutors and public service employees) awareness of the issues concerning corruption. The project target groups were judges, prosecutors, public service employees and general public. More information on the project and its outputs can be found in English at <https://korupce.cz/projekt-zintenzivneni-boje-proti-korupci/the-project-to-strengthen-the-fight-against-corruption/>.

For measures connected with the Act on Conflict of Interest see question no. 25. In other instances, including revolving doors, the legislation remains as described in the 2022 Rule of Law report.

On 3 October 2023, a new code of ethics for civil servants was issued in the form of the Service Regulation No. 3/2023<sup>7</sup> of the Chief State Secretary on the rules of ethics for civil servants, which replaced the existing Service Regulation No. 13/2015 of the Deputy Minister of the Interior for the Civil Service. The new code of ethics is effective from 1 January 2024.

The new code of ethics represents a move away from the previous concept of codes of ethics governing professional ethics. It is not a set of rules defining "do's and don'ts" and setting out penalties for breaches. The new service regulation is based on an aspirational concept of ethics and therefore aims primarily at fostering and motivating a mature ethical environment in service authorities. It aims to encourage civil servants to be able to make an independent assessment of an ethically significant

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<sup>7</sup> <https://www.mvcr.cz/sluzba/soubor/ssp-c-3-2023-priloha-c-2-pravidla-etiky-statnich-zamestnancu.aspx>

situation and decide how to act or behave in such a situation on the basis of the general guidelines of the new code of ethics.

The new code of ethics is therefore general and relatively brief - it contains 10 articles that express basic societal values, including dignity, freedom, equality and solidarity, as well as specific values of the civil service as a specific profession, which is entrusted by the public with the exercise of state administration, including, for example, responsible governance. An important part of the code of ethics is its detailed justification, which provides specific examples of the application of the rules that are set out in the code, as well as examples of tools that the service authorities can implement to promote and develop an ethical culture. These tools include, for example, value management, a pro-ethical personnel policy, pro-ethical leadership, regular ethics training or an ethics advisor or advisory body. For 2024, the Civil Service Section of the Ministry of the Interior is planning some training activities on the topic of civil service ethics as well as workshops on specific examples from practice.

Alongside the code of ethics, the Civil Service Section of the Ministry of the Interior has issued a methodological recommendation to service authorities and civil servants on how to proceed when being offered a gift in connection with the performance of civil service and a template service regulation laying down the procedure when being offered a gift in connection with the performance of civil service.

#### ***24. General transparency of public decision-making (including rules on lobbying and their enforcement, asset disclosure rules and enforcement, gifts policy, transparency of political party financing)***

In 2023, the Czech Republic implemented the reform 4.3.4. *Establishing rules for lobbying* within the component 4.3. *Anti-corruption reforms of the Czech RRP* with the timeline for completion by Q2 2025.<sup>8</sup> First monitoring milestone according to amended CID and OA was set to Q1 2024 for the draft law to be approved by the Government. The progress of implementation was regularly reported to European Commission.

The Act No. 424/1991 Coll. on Association in Political Parties and Political Movements was amended by the Act No. 253/2023 which comes into force on the 1 January 2024 (please see the [Act](#)). The amendment was partly targeted on all public officials (starting at the local level), who as of now are prohibited from owning media or being the controlling person of media companies. Beside that, the amendment was also targeted on enhancing governance structure of the Office for Supervision of the Management of Political Parties and Political Movements by clarifying powers and responsibilities both of the Chair and of the Members of the Office. The amendment also introduces the College of the Office that is composed of the Chair and other Members of the Office and coordinates the performance of oversight activities of the Office.

An authority was dedicated to supervise the observance of the ban and to punish its violation. This body is the Office for the Supervision of the Finances of Political Parties and Political Movements, which until now was responsible for the supervision over financing of political parties and election campaigns. Its scope has thus expanded. The Office has now the right to impose financial sanctions in cases of

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<sup>8</sup> TZ: Protikorupční rada vlády projednala aktuální podobu zákona o lobbování, novelu o státním zastupitelství a plán protikorupčních aktivit na rok 2024. See: [https://vlada.gov.cz/cz/clenove-vlady/pri-uradu-vlady/michal\\_salomoun/aktualne/tz-protikorupcni-rada-vlady-projednala-aktualni-podobu-zakona-o-lobbovani--novelu-o-statnim-zastupitelstvi-a-plan-protikorupcnich-aktivit-na-dalsi-ro-210422/](https://vlada.gov.cz/cz/clenove-vlady/pri-uradu-vlady/michal_salomoun/aktualne/tz-protikorupcni-rada-vlady-projednala-aktualni-podobu-zakona-o-lobbovani--novelu-o-statnim-zastupitelstvi-a-plan-protikorupcnich-aktivit-na-dalsi-ro-210422/)

conflict of interests and, in extreme cases, ordering the sale of a public official's ownership stake in a media company.

For changes related to the conflict of interests introduced by the amendment see question no. 25. It is to be seen how this additional agenda will be handled without additional personnel or budget increase.

### **Transparency of political party financing**

In 2023, the previously mentioned draft law to amend the Act no. 424/1991 Coll., on association in political parties and political movements, was adopted by the Parliament and the changes are effective since January 1<sup>st</sup>, 2024. The amendment eliminates the shortcomings of the existing legislation. The law specifies the role of the members of the supervisory body and establishes a collegium that decides on issues of supervisory activity. This strengthens the principle of collective management of the Office. The reason for the change is the fact that the previous wording of the law made it possible to perceive the office as a monocratic body not only from the point of view of the administration of the institution as such, but also in matters of supervision. The main changes are the creation of a Collegium of the Office, the definition of the position of the members in the performance of supervisory and methodical activities, and the improvement of the transmission of information within the Office. Newly, supervisory issues fall under the collective decision-making of a collegium composed of members and the chairman of the Office.

In 2023, also a draft of a completely new law on election campaigns was prepared. The rules for campaign financing and its transparency have so far been set out in five separate laws relating to individual types of elections. They are newly listed in one summary regulation. Thanks to the close cooperation with the Office for Supervision of the Finances of Political Parties and Political Movements, the draft law also reflects rich concrete experience from the Office's six years of operation. The draft law thus removes a number of loopholes and shortcomings. At the same time, it simplifies some obligations and reduces the administrative burden on parties, without worsening the transparency of political competition. It will be possible to fulfil all obligations related to the reporting of campaign expenses electronically, which will improve the usability of information for the public. The law is now in the inter-ministerial comment procedure and the parliament should deal with it during 2024.

### ***25. Rules and measures to prevent and address conflicts of interest in the public sector. Please specify the features and scope of their application (e.g. categories of officials concerned, types of checks and corrective measures depending on the category of officials concerned)***

The Act on Conflict of Interest no. 159/2006 Coll. was amended by the above-mentioned Act no. 253/2023 Coll. which comes into force on the 1 January 2024 (please see the [Act](#)). The main changes regarding the regulation of conflict of interest include the following.

- The President of the Republic is newly included among public officials in section 2 para 1 c).
- The prohibitions stated in section 4a (prohibition to own media) and section 4c (prohibition to receive grants and subsidies) of the Act on Conflict of Interest are now imposed on entities of which a public official in section 2 para 1 c) is beneficial owner. The Act of Conflict of Interest is henceforth linked with the Act on Beneficial Ownership (no. 37/2021 Coll.) in this regard, which should streamline the work of the relevant authorities.

- The Amendment prohibits the public official to transfer their beneficial ownership of such an entity to a family member or a person acting in concert. Such transfer would be invalid.
- Should the public official not comply with the above-mentioned obligations they will be prohibited by law to perform certain rights connecting to their beneficial ownership, such as executing their voting rights.
- The Office for Supervision of the Management of Political Parties and Political Movements is in charge of supervising whether the public officials in 2 para 1 c) comply with the above mentioned obligations and is entitled to demand compliance according to section 19 ha and 19 hb of the Amendment.
- Furthermore, the fine for breach of section 4a can reach up to 3% of the value of the legal entity's (owning the media) assets.

All these steps are targeting also high-level corruption cases. Office for Supervision of the Management of Political Parties and Political Movements is put in charge of imposing the sanctions.

For details, see the input to the 2022 Rule of Law Report. There is also a structured set of rules on conflict of interests and its prevention under the Act No. 134/2016 Coll. on Public Procurement. A prevention of conflict of interests is given as a default aspect that every contracting authority/entity must consider when awarding a contract (which applies to both above and below threshold contracts). If a conflict of interests is detected, the contract cannot be concluded, the contracting authority/entity must instead take measures to eliminate it (including the exclusion of respective supplier).

Public procurement legislation provides the buyer with several tools to detect conflict of interests:

- The winner is obliged to declare its beneficial owners before signing the contract;
- A contract cannot be signed with a “non-transparent” joint-stock company (or similar entity) - shares need to be booked;
- The buyer shall request a written declaration from all committee members, invited experts or persons representing the contracting authority confirming that they have no conflict of interests.

Public procurement legislation also provides a number of tools intended to facilitate the external surveillance:

- Individual reports on procedures for the award of contracts (see Art 84 of the classical PP Directive) must be published on the contracting authority's electronic profile.
- Contracts with a value exceeding 50 000 CZK must be published.
- All bidders must be identified on the contracting authority's e-profile.

Again, these rules present a significant step forward in fighting corruption on the high-level.

***For questions 23-25, please provide figures on their application, such as number of detected breaches/irregularities of the various rules in place and the follow-up given (investigations, sanctions, etc.).***

As the compliance with obligations under Act on Conflict of Interest is decentralised among number of municipalities the statistics only reflect actions taken by the Ministry of Justice. In 2023 the Ministry of Justice has reported 2.665 cases (of which 413 cases concerned failure to file the declarations at the beginning of term, 1765 involved annual declarations and 487 cases concerned the end term declarations) in which a public official has not fulfilled their obligation to file a declaration, out of which

2.012 breaches were committed in 2023 (108 cases concerned failure to file the declarations at the beginning of term, 1762 involved annual declarations and 142 cases concerned the end term declarations. The Ministry of Justice has conducted 40 in depth material reviews of declarations filled by public officials.

**26. Measures in place to ensure whistleblower protection and encourage reporting of corruption, including the number of reports received and the follow-up given.**

The Act on Protection of Whistleblowers and its accompanying amending act implementing the Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law, were published in the Collection of Laws and entered into force on 20 June 2023 as laws no. 171/2023 Coll.<sup>9</sup> and 172/2023 Coll.<sup>10</sup> Entry into force of the law on the protection of whistleblowers and the accompanying amending law has also been a milestone set out in reform 4.3.1 of the component 4.3 of the Czech RRP. The European Commission was thus informed about the abovementioned acts entering into force as well as about various complementing activities carried out after completion of this milestone. Information about some of those activities that were part of the Project to Strengthen the Fight against Corruption co-funded by the EEA and Norway Grants can be found in English at <https://korupce.cz/projekt-zintenzivneni-boje-proti-korupci/the-project-to-strengthen-the-fight-against-corruption/>. The Ministry of Justice continues to provide methodological support (seminars, webinars, workshops, ...) for both potential whistleblowers and persons establishing and operating internal reporting channels.

Regarding the number of whistleblowing reports of corruption received and the follow-up given, we can only provide data from the Ministry of Justice acting as the so-called external reporting channel. In 2023 the Ministry of Justice received 3 corruption-related reports which were subsequently referred to competent public authorities for further proceedings.

Within the Police of the Czech Republic, an internal reporting mechanism (“internal reporting procedures”) for receiving and following up on reports has been established. In the internal reporting mechanism, the ombudsman of the Police of the Czech Republic has been appointed as a competent person to receive a report of breaches which fall within the scope of the Whistle-blower Protection Act. Furthermore, a set of guidelines concerning the Whistle-blower Protection Act has been distributed within the Police of the Czech Republic. This set of guidelines was intended to introduce purpose of the Whistle-blower Protection Act and the internal reporting mechanism to police officers and employees within the Police of the Czech Republic. So far, one report has been delivered to the ombudsman of the Police of the Czech Republic. The relevant authority examined the report. The examination was finished with conclusion that no offence had been committed.

**27. Sectors with high risks of corruption in your Member State:**

- **Measures taken/envisaged for monitoring and preventing corruption and conflict of interest in public procurement**
- **list other sectors with high risks of corruption and the relevant measures taken/envisaged for monitoring and preventing corruption and conflict of interest in these sectors (e.g. healthcare, citizen/residence investor schemes, urban planning,**

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<sup>9</sup> <http://aplikace.mvcr.cz/sbirka-zakonu/ViewFile.aspx?type=c&id=39645> – numbered pages 2458–2469.

<sup>10</sup> <http://aplikace.mvcr.cz/sbirka-zakonu/ViewFile.aspx?type=c&id=39645> – numbered pages 2470–2478.

***risk or cases of corruption linked to the disbursement of EU funds, other), and, where applicable, list measures to prevent and address corruption committed by organised crime groups (e.g. to infiltrate the public sector)***

With regard to sectors with high risks of corruption, both public procurement and other relevant sectors, in 2023, the Czech Republic implemented the reform 4.3.3. *Collection and analysis of data on corruption* within the component 4.3. *Anti-corruption reforms* of the Czech RRP with the timeline for completion by 31 December 2023. The sectors covered were: 1. healthcare, 2. public procurement, 3. executions/foreclosures, 4. education and science, 5. construction and planning proceedings and 6. Sports. The implementation followed the set timeline, the progress was regularly reported to the European Commission. The final report on completion of the reform is due in January 2024.

The NCOZ annually evaluates corruption crimes that are investigated by individual departments and units of the Police of the Czech Republic, including the NCOZ. The modus operandi in corruption cases is approximately the same as reported previously. The high-risk sectors also correspond to what has been reported previously, including public procurement, but also other ways of handling public funds.

For details, see the input to the 2022 Rule of Law Report. Corruption risks within this sector are addressed among others by the Act No. 134/2016 Coll. on Public Procurement. An amendment to this act was published, which clarifies some parts of the act and change them according to the practical experience and desirable best practice. The topic of conflict of interest in public procurement has been included as a regular topic in the educational and methodological campaign for contracting authorities and control bodies. National Strategy of Public Procurement of the Czech Republic for the period 2024 - 2028, which is linked to the Programme Declaration of the Government, currently undergoes the inter-ministerial comment procedure. The strategy aims, among other things, to increase the predictability, user-friendliness and professionalization of the public procurement environment.

***28. Any other relevant measures to prevent corruption in public and private sector***

No new information.

***C. Repressive measures***

***29. Criminalisation, including the level of sanctions available by law, of corruption and related offences, including foreign bribery.***

No new information.

***30. Data on the number of investigations, prosecutions, final judgments and application of sanctions for corruption offences (differentiated by corruption offence if possible), including for legal persons and high level and complex corruption cases and their transparency, including as regards to the implementation of EU funds.***

Please see enclosure.



**31. Potential obstacles to investigation and prosecution as well as to the effectiveness of criminal sanctions of high-level and complex corruption cases (e.g. political immunity regulation, procedural rules, statute of limitations, cross-border cooperation, pardoning)**

No new information, we do not see any obstacles in investigation of high-level and complex corruption cases, apart from those identified before.

**32. Information on effectiveness of non-criminal measures and of sanctions (e.g. recovery measures and administrative sanctions) on both public and private offenders.**

There are no general statistics on individual measures and sanctions imposed by the administrative authorities. As for judicial review of administrative decisions, there are around 4.000 new cases every year registered at the Supreme Administrative Court, this number includes all cases falling under the jurisdiction of the administrative judicial procedure in the Czech Republic.

To give example on numbers of administrative proceedings under the Act on Conflict of interest with the Ministry of Justice, which is a central authority for the administration of Conflict of Interest and with which an extraordinary measure of review of a decision could be filed (apart from the regular appeal against a decision of the administrative authority [the municipality] to second instance administrative authority [regional authority] and later cassation complaint to Supreme Administrative Court). There was 1 initiative in 2022 (Transparency International on Conflict of Interest of Andrej Babiš) and 1 in 2023. Neither of these initiatives led to initiation of review proceedings.

**Other – please specify**

### **III. Media freedom and pluralism**

**33. Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding media pluralism and media freedom (if applicable)**

As regards strengthening the rules and mechanisms to enhance the independent governance of public service media, new law no. 225/2023 has been adopted to involve the Senate (the Upper Chamber of the Parliament) in the system of election the Councils of the Czech Television and the Czech Radio. In the past, members of the boards of the public service media (Czech Television and Czech Radio) have been elected only by the Chamber of Deputies. Due to amendments of respective legislation, one-third of the members of both boards should be also elected by the second chamber of the Parliament of the Czech Republic - the Senate. The changes in legislation entered into force on 1 October 2023 (see Act No. 225/2023 Coll.) and the first election of new board members by the Senate has already took place in November 2023.<sup>11</sup>

This new element in the election process also brought a significant change as regards the dismissal of the body as such, in the future only an individual member can be recalled, based on grounds stipulated by law, by the Chamber of the Parliament that had elected the member. The nomination of members

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<sup>11</sup> Volby do Rady České televize. Senát ČR. See: [https://www.senat.cz/informace/pro\\_verejnost/volby\\_do\\_rady\\_ct/](https://www.senat.cz/informace/pro_verejnost/volby_do_rady_ct/)

can be submitted by civil society organisations existing at least 10 years. The law came into force on October 1st. 2023.

Further to strengthen the resilience of public service media, Ministry of Culture has proposed a draft of law to adjust public service mission to the up-to-date state of the media landscape and also to enable sufficient financing of Czech Television and Czech Radio. For that purpose, the ministry proposed a draft to amend the relevant legislation, laws on Czech Television, Czech Radio, and on licence fees. Since the financing of public service media in Czechia is based on radio and television licence fees, it is envisaged to increase the amount of fees which has not been changed for several years as well as to adjust the definition of TV set to the technological reality. The draft was sent to the regular consultation procedure, the outcome showed necessity to further elaborate the needs of financing with respect to the impacts to the media market. Two working groups shall be set up from representatives of private sector as well of public service media dealing with market impacts to provide results in two or three months.

**A. Media authorities and bodies**

**34. Measures taken to ensure the independence, enforcement powers and adequacy of resources (financial, human and technical) of media regulatory authorities and bodies**

Already described in the last report.

**35. Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies**

Substantial changes were brought in 2022, please see information in 2023 report.

**36. Existence and functions of media councils or other self-regulatory bodies**

No substantial change since the last report.

**B. Safeguards against government or political interference and transparency and concentration of media ownership**

**37. Measures taken to ensure the fair and transparent allocation of state advertising (including any rules regulating the matter)**

No substantial change since the last report.

**38. Safeguards against state / political interference, in particular:**

**- safeguards to ensure editorial independence of media (private and public)**

No substantial change, please see information in 2022 report.

**- specific safeguards for the independence of heads of management and members of the governing boards of public service media (e.g. related to appointment, dismissal), safeguards for their operational independence (e.g. related to reporting obligations and the allocation of resources) and safeguards for plurality of information and opinions**

The major changes were already introduced by the new law no. 225/2023, in effect since October 1st (see point 33). As regards conditions for election and dismissal of the head of management (director general), there is a special quorum for the election of the director general, it is the majority of votes of all members (general rule is majority of present members), for dismissal even stricter quorum, two thirds of all members. As regards the reporting obligation to the Parliament, it is not anymore possible

to vote on dissolution of the governing body in case of unacceptance of the annual report in two consecutive cases. New law envisages the annual report is submitted to both chambers of the Parliament without any consequences for the governing body. This should preclude situations such as those in the past that undermine otherwise solid system of power distribution between the Parliament and the media of public service.

Additional changes are foreseen in the draft a new law, as mentioned in q. 33 in the second paragraph. In order to further strengthen the independence of the members of the governing body, it is proposed to add an obligatory justification in case of dismissal of the individual member. So far it is sufficient to state the ground foreseen by the law without reasoning it (given it is approved by the vote in the plenary). Moreover, the conflict of interests of the members of the governing body shall be regarded as to be able to endanger the integrity of the body as a whole, not only in relation to the decision made by the member in an individual case.

***- information on specific legal provisions and procedures applying to media service providers, including as regards granting/renewal/termination of licences, company operation, capital entry requirements, concentration, and corporate governance***

No substantial change, please see information in 2022 report.

***39. Transparency of media ownership and public availability of media ownership information, including on direct, indirect and beneficial owners as well as any rules regulating the matter***

A new law<sup>12</sup> was adopted to precise the conflict of interest in relation to the possession of media outlets by public officials. The current ban on holding a licence for radio a television broadcasting or being a publisher of daily press also newly relates to the beneficial owners of those media outlets who are in the same time public officials as defined by the law.

**C. Framework for journalists' protection, transparency and access to documents**

***40. Rules and practices guaranteeing journalist's independence and safety, including as regards protection of journalistic sources and communications, referring also, if applicable, to follow-up given to alerts lodged with the Council of Europe's Platform to promote the protection of journalism and safety of journalists.***

No substantial change in relation to media law since the last report. The protection of freedom of expression and independent media, as well as the safety of journalists are among the highest priorities of Czech foreign policy in the human rights field. The Czech Republic considers these fundamental rights to be an essential prerequisite for a functioning democratic society. The Czech Republic condemns every form of threat, attack and harassment towards journalists and finds it essential to protect the safety of journalists and free journalistic reporting. In this regard the Czech Republic highly values and supports the work of the Council of Europe's Platform to promote the protection of journalism and safety of journalists.

The Czech Republic received a total of 3 alerts from the Platform in 2023 (as of 4 December 2023). The alerts did concern 1) accreditation of a Russian journalist to a press conference at Prague Castle, 2) dismissals and resignations at Azadliq Radiosu, the Azerbaijani service of Radio Free Europe/Radio Liberty (RFE/RL) and 3) threats from unknown persons to Alesya Marokhovskaya and Irina Dolinina,

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<sup>12</sup> Act No. 253/2023 Coll., <https://www.psp.cz/sqw/historie.sqw?o=9&t=312>

two journalists with the news website iStories. Each of the cases concerned a different thematic issue. All three alerts were thoroughly investigated and an official response was sent to the platform concerning all three cases within the given term. The Platform published the replies of the Czech Republic on its website (<https://fom.coe.int/en/pays/detail/11709502>).

**41. Law enforcement capacity, including during protests and demonstrations, to ensure journalists' safety and to investigate attacks on journalists**

There have been no substantial new developments. (The capacity of law enforcement remains fully sufficient. Recent situation did not call for the adoption of further legislative/organizational measures to address dangers to journalists.)

**42. Access to information and public documents by public at large and journalists (incl. transparency authorities where they exist, procedures, costs/fees, timeframes, administrative/judicial review of decisions, execution of decisions by public authorities, possible obstacles related to the classification of information)**

As regards a more detailed description of the scope of the Act on Free Access to Information No. 106/1999 Coll.<sup>13</sup> (hereinafter referred to as the Information Act), we fully refer to our inputs provided in previous years. The last amendment to the Information Act implemented by Act No. 241/2022 Coll., and its consequences, was described in detail in our input to the 2023 Rule of Law Report, to which we also refer. It remains the same that the Czech Republic has developed a detailed methodology on this issue, which is available on website <https://www.mvcr.cz/odk2/clanek/metodicke-materialy-k-zakonnym-zmocnenim.aspx?q=Y2hudW09Mw%3d%3d>

At the moment, there are no further significant changes to the Information Act planned. From the point of view of legal certainty of all parties, frequent amendments are not appropriate. Therefore, the legal practice of interpretation of the Information Act in accordance with the above-mentioned amendment is currently and gradually settling down (new provisions have not yet been interpreted in the case-law of the courts).

Among the important court decisions concerning the right to information issued this year (but not related to the above-mentioned amendment), we can draw attention to the Constitutional Court ruling in case No. Pl. ÚS 25/21, 17 January 2023.<sup>14</sup>

In this case, the Constitutional Court assessed the constitutionality of the restrictive legislation on the provision of information from the health information system pursuant to Section 73(7) of Act No 372/2011Coll. on Health Services and Conditions for Their Provision (Act on Health Services), as amended (the Czech Statistical Office shall provide only information on the structure of the data on the basis of a request pursuant to the Information Act, if it concerns data in the National Health Information System). Specifically, it was a matter of assessing whether the specific rule laid down in the Act, which, in principle prevents the provision of individualised data in connection with individual diagnoses (or medical treatments or health institutions), is in accordance with the constitutionally guaranteed right to seek and disseminate information under Article 17 of the Charter of Fundamental Rights and Freedoms. The Constitutional Court concluded that the provision does not prevent the

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<sup>13</sup> An English translation of this law is also available at the Ministry of the Interior website <https://www.mvcr.cz/clanek/preklady-vybranych-zakonu.aspx>

<sup>14</sup> [https://nalus.usoud.cz:443/Search/GetText.aspx?sz=Pl-25-21\\_1](https://nalus.usoud.cz:443/Search/GetText.aspx?sz=Pl-25-21_1)

applicant from obtaining such information (while protecting personal data, privacy, etc.), i.e. that the provision does not preclude the possibility of requesting such information under the general regime of the Information Act.

The Constitutional Court has also generally commented on the assessment of special legislation restricting the right to information. It stated that in each particular case, it is necessary to examine (according to the circumstances of the particular case) whether the condition of the need to restrict the fundamental right and freedom of the individual in a democratic society was met, because it cannot be excluded a priori that, in a particular case, the protection of the fundamental right will prevail over the cited values, i.e. that there will be no 'urgent social need' for restriction of the fundamental right. No law can abstractly exclude the protection of fundamental rights and freedoms, guaranteed by the constitutional order, and in each individual case of conflict between constitutionally guaranteed rights, courts and other public authorities must, by means of a proportionality test, compare the affected conflicting rights and ensure a fair balance between them.

The aforementioned Plenary ruling of the Constitutional Court was then followed by the Constitutional Court in its ruling No. III. ÚS 836/21, 11 April 2023,<sup>15</sup> concerning the provision of information on health interventions in individual health care institutions for other than statistical purposes pursuant to Section 73(8) of the Act on Health Services. (*For statistical and scientific purposes, the statistical institute provides data from the national health registers only in a form from which a specific natural or legal person cannot be identified. The statistical institute shall be entitled to charge a fee for the provision of such data in an amount not exceeding the costs associated with making extracts, copies, providing technical data carriers and sending data to an authorised entity pursuant to paragraph 2. The statistical institute may also request a payment for extremely extensive data search.*)

The Constitutional Court concluded that this provision does not preclude the provision of individualised information (according to individual health care institutions) even under the general regime of the Information Act for other than statistical or scientific purposes. From the decision it shall be cited: *It is not possible to agree with the argument of the administrative courts that the names of individual maternity hospitals in conjunction with information on births carried out there, medical interventions and injuries are confidential information that cannot be provided for other than statistical purposes without the written consent of the data subject. (...) The publication of information on interventions carried out in individual maternity hospitals is undoubtedly in the public interest to that extent, as information and transparency can contribute to improving the healthcare as a whole.*

### **43. Lawsuits (incl. SLAPPs - strategic lawsuits against public participation) and convictions against journalists (incl. defamation cases) and measures taken to safeguard against manifestly unfounded and abusive lawsuits**

Work on the proposal of the directive harmonizing the anti-SLAPP rules at the EU level was completed at the working level during the Spanish Presidency. Czechia is ready to adopt its national implementing measures within the transposition period. The fundamental question that has accompanied the draft directive at all stages has been its balance in terms of the procedural safeguards afforded to the defendant. In this respect, the proposal emphasises that the court must respect the balance between the defendant's right to an effective remedy and the applicant's right to a fair trial in its decision-making and apply the procedural safeguards only after it has thoroughly assessed the particular case.

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<sup>15</sup> [https://nalus.usoud.cz:443/Search/GetText.aspx?sz=3-836-21\\_1](https://nalus.usoud.cz:443/Search/GetText.aspx?sz=3-836-21_1)

The draft directive must now go through an internal approval procedure in both the European Parliament and the EU Council. The directive is expected to take effect in the first half of 2024.

***Other – please specify***

#### **IV. Other institutional issues related to checks and balances**

***44. Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the system of checks and balances (if applicable)***

In regard to the establishment of the Czech NHRI, see the answer to question 49.

**A. The process for preparing and enacting laws**

***45. Framework, policy and use of impact assessments and evidence based policy-making, stakeholders'/public consultations (particularly consultation of judiciary and other relevant stakeholders on judicial reforms), and transparency and quality of the legislative process***

As far as transparency and public consultation are concerned, the Czech law-making process is generally transparent and inclusive. Central government bodies (ministries, authorities) are legally obliged to consult all relevant stakeholders - usually representatives of the individual business sectors or social groups most affected by the proposed legislation. These stakeholders are often involved in the early stages of drafting legislation, and some of them also participate in the inter-ministerial comment procedure, such as the Association of Local Authorities, the Union of Towns and Municipalities, the Confederation of Employers' and Business Associations or the Union of Employers' Associations.

#### **Framework, policy and use of impact assessments and evidence based policy-making**

The legislative process and practice do not count on an engagement of the Parliament of the Czech Republic in the creation of frameworks, policy planning and impact assessments. These activities should be done before (ex-ante evaluation) the bill is submitted to the Parliament or after legislation is promulgated and starts to be effective (ex-post evaluation). The rules concerning frameworks, policy analysis, planning and impact assessments are summarised mostly on the governmental level. Impact assessment and evidence based policy-making are mostly related to procedures of Regulatory impact assessment (RIA).<sup>16</sup> Concerning bills submitted for deliberation to the Chamber of Deputies by the Government, the procedure of preparation of drafts is regulated by [Government's Legislative Rules](#)<sup>17</sup>.

A framework, policy planning, impact assessment works and evidence based policy-making should be undertaken by sponsors who present bills (a sponsor of a bill may be any deputy, a group of deputies, the Senate, the government or the Assemblies of higher self-governing units). In cases of bills sponsored by the government, such work is done mostly by the government or ministries, etc. In cases of bills sponsored by deputies or senators, framework, policy and impact assessment issues should be covered by concerned deputies or senators, their assistants, external experts or their political parties which may help them with preparation. Concerning questions on facts, foreign law or EU issues,

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<sup>16</sup> Ria.vlada.cz. See: <https://ria.vlada.cz/>

<sup>17</sup> Legislativní pravidla vlády. See: <https://vlada.gov.cz/cz/ppov/lrv/dokumenty/legislativni-pravidla-vlady-91209/>

members of the Parliament may forward their questions to the Parliamentary Institute, which for the Parliament resolves the tasks of a scientific, informative and educational nature.

The minimal level of ex-ante assessment of draft of bills on the parliamentary level is ensured by sec. 86 (3) of [Act No. 90/1995 Coll., on the Rules of Procedure of the Chamber of Deputies](#) which states that *“The draft law includes an explanatory report justifying the principles of the new legislation. It should analyse the current legal situation and explain the necessity of the new legislation as a whole (general part) as well as in terms of its individual provisions (special part). Each explanatory report must also feature all anticipated economic and financial impact of the new legislation, especially on the state budget and regional and municipal budgets, and an assessment of its compliance with international treaties under Article 10 of the Constitution and with the constitutional order of the Czech Republic.”*

As of 2024, the new Act No. 222/2016 Coll. on the Collection of Laws and International Treaties together with amendments of other legislation<sup>18</sup> entered into force, which replaced current regulation.<sup>19</sup> Changes in regulation of the Collection of Laws and International Treaties are followed by amendments of several other laws including Rule of Procedure of the Chamber of Deputies. According to the new regulation applicable since 2024, compulsory content of the explanatory memorandum is regulated not by Rules of Procedure of the Chamber of Deputies as until now, but by § 19 - 20 of Act No. 222/2016 Coll. on the Collection of Laws and International Treaties.<sup>20</sup> The new regulation contains more requirements in comparison with the current regulation and it is more detailed.

A detailed analysis of the legal and factual situation must precede the preparation of any legislation from 2007 onwards. This includes an assessment of the necessity of changing the legal situation and, if certain relationships are not yet regulated by legislation, an assessment of the necessity of extending legal regulation to these relationships, including an assessment of the impact of the envisaged change in the legal situation or the impact of the legal regulation to be extended to legal relationships not yet regulated by law.

A Regulatory Impact Assessment (RIA) is a set of steps that allow for the evaluation and comparison of options for solving a problem according to their costs and benefits, and provide the basis for an informed policy decision on the most appropriate solution. The process is guided by the government-approved RIA Guidelines. RIA is an integral part of the legislative process in the Czech Republic. A well-prepared RIA contributes to improving the efficiency and transparency of government to economic performance and strengthens the involvement of the general and expert public and other stakeholders in the preparation of legislative and non-legislative materials.

The RIA Unit at the Office of the Government analyses and comments on the methodological and substantive quality of RIA reports prepared by ministries and other central government bodies before they are submitted to the RIA Board (independent expert working body to Government Legislative Council) for a more detailed expert review. The RIA Unit provides methodological and conceptual guidance and development of the RIA process in the Czech Republic, inter alia, by preparing methodological materials on sub-aspects of RIAs, as well as by providing consultation and training to officials preparing RIAs. In addition, it manages the comprehensive website [ria.gov.cz](http://ria.gov.cz), which contains

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<sup>18</sup> Zákon č. 277/2019 Sb., kterým se mění některé zákony v souvislosti s přijetím zákona o Sbírce zákonů a mezinárodních smluv.

<sup>19</sup> Zákon č. 309/1999 Sb., o Sbírce zákonů a o Sbírce mezinárodních smluv.

<sup>20</sup> § 86 (2) Rule of Procedure of the Chamber of Deputies



all documents and information necessary for the preparation of RIAs. Last but not least, the Unit ensures international cooperation and exchange of good practice in improving regulatory development. Its staff represents the Czech Republic in various international forums such as the Working Party on Better Regulation of the Council of the EU, the Fit for Future platform, the RegWatchEurope platform and the OECD Regulatory Policy Committee.

Two major substantive and procedural changes to the RIA were completed in 2023. At the beginning of 2023, amendments to the RIA Guidelines, the Government Legislative Rules, and the Government Rules of Procedure extended the assessment scope to include impact on families (Family Impact Assessment), territories and local authorities (Territorial Impact Assessment), and digitalization (Digital Impact Assessment), while reinforcing the consideration of the environment and sustainable development aspects (Sustainable Impact Assessment).<sup>21</sup> The changes are reflected in the preparation and scrutiny of the final RIA reports (eventually explanatory reports and justifications) from March 2023. In June 2023, the government approved the systematic conduct of a retrospective review of the effectiveness of the already existing regulatory measures (ex post RIA).<sup>22</sup> With effect from January 2025, this sets out a single output from the review and a way of assessing and making the process transparent. The implementation of the new ex post RIA element is ensured by the RIA Unit on an ongoing basis by providing methodological guidance to RIA preparers in setting the parameters of the review and preparing the methodology and training for preparers. The introduction of a functional ex-post evaluation mechanism in the Czech Republic will allow for better monitoring and measurement of the effectiveness of the legislation already adopted and will provide citizens and stakeholders with more information on whether or not the intended objectives have been met. In addition, it will support the growing importance of data-driven decision-making.

### **Government Analytical Unit**

The Government Analytical Unit (VAÚ), as the central analytical unit of government, currently exists as part of the department of Minister of Legislation. VAÚ is part of the reform 1, component 4.4 of the Czech RRP.

In this form, it was involved in the following projects in 2023:

RIA for the regulation of short-term rentals (MMR): complete development of impact analysis and intervention options for the regulation of short-term rentals.

RIA for consideration of regulation on tourism management and promotion (MMR): management and development of impact analysis for an intervention to promote tourism management, including extensive support in the consultation process. A final report was produced with a recommendation to go down the route of promoting tourism through soft measures such as financial support through subsidy titles.

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<sup>21</sup> Government Resolution No. 22 of 11 January 2023 Draft amendments to the Government Legislative Rules, the General Principles for Regulatory Impact Assessment (RIA) and the Government Rules of Procedure. See at: <https://www.odok.cz/portal/zvlady/usneseni/2023/22/>

<sup>22</sup> Government Resolution No. 435 of 14 June 2023 on the review of the effectiveness of regulation (ex post RIA) and the amendment of the General Principles for Regulatory Impact Assessment (RIA) and the Statute of the Legislative Council of the Government. See at: <https://www.odok.cz/portal/zvlady/usneseni/2023/435/>



RIA for the Housing Assistance Act (MMR): support in the impact analysis of housing assistance, where the role of the VAÚ was particularly focused on the development of a system dynamics model and literature review.

RIA for intervention on family support and child protection (MoLSA): a project where the VAÚ assists with literature review and problem structuring.

RIA for the intervention on social services (MoSW): project where the VAÚ helps with problem structuring and data analysis.

RIA for the intervention on social workers (MoSW): a project where the role of the VAÚ is so far limited to the correct definition and underpinning of the problem.

Furthermore, the VAÚ has provided and continues to provide methodological support and consultation on many sub-projects. These include consultations in the framework of the European Presidency (e.g. Data Act or AI Act), methodological support to the Government Commissioner for Resilience and Economic Modernisation, the TSI project on Sustainable Development Assessment, or collaboration on projects on analytical capacity in government with the non-profit sector. The VAÚ is also starting the implementation of the reform of analytical work in government, funded by the Czech RRP.

All of the above steps for 2023 are fully in line with the recommendations of the Public Governance Review issued by the OECD.

### **Stakeholders'/public consultations (including consultation of judiciary and other relevant stakeholders on judicial reforms)**

Concerning bills submitted for deliberation to the Chamber of Deputies by the Government, the procedure of preparation of drafts is regulated by [Government's Legislative Rules](#)<sup>23</sup>. During the year 2023, there have not been any changes in the rules of Government's Legislative Rules that would negatively influence the extent of the inter-ministerial comment procedure. The inter-ministerial comment procedure has been even extended<sup>24</sup> in terms of adding a new partner to be consulted (an advisory body called National budget council)<sup>25</sup> and in the extension of topical evaluations within the preparation phase of legislative drafts.<sup>26</sup>

Concerning non-government bills (presented by any Deputy, a group of Deputies, the Senate or the Assemblies of higher self-governing units), there have not been any changes relevant to the topic of consultations in Act No. 90/1995 Coll., on the Rules of Procedure of the Chamber of Deputies which would become effective during the year 2023.

Concerning consultation with social partners, consultations are mostly done on the level of ministries, the Office of the Government or state authorities. On the level of the Parliament, committees both in the Chamber of Deputies and the Senate may establish subcommittees to deal with a particular issue or set of issues. Subcommittees have an advisory function. Stakeholders may be invited as guests to subcommittees for instance in order to provide presentation on the topic. The Senate may organize so

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<sup>23</sup> Legislativní pravidla vlády. See: <https://vlada.gov.cz/cz/ppov/lrv/dokumenty/legislativni-pravidla-vlady-91209/>

<sup>24</sup> Government's Legislative Rules were changed during the year 2023 by the Government Resolution No. 22 of 11 January 2023 and Government Resolution No. 481 of 28 June 2023.

<sup>25</sup> Národní rozpočtová rada. See on: <https://www.rozpoctovarada.cz/>, Usnesení vlády č. 481 ze dne 28. 6. 2023. See: <https://www.odok.cz/portál/zvlady/usneseni/2023/481/>

<sup>26</sup> Usnesení vlády č. 22 ze dne 11. 01. 2023. See: <https://www.odok.cz/portál/zvlady/usneseni/2023/22/>

called Public hearings in order to discuss an issue within the Senate's competences with experts and other persons who can provide information on the issue under consideration.<sup>27</sup> Furthermore, members of parliament may organize public events on the topic of general concern, such as round tables, seminars, etc. Members of Parliament regularly invite stakeholders and experts in the concerned topic to such events.

Consultations with representatives of the judiciary and the prosecution system took place in the context of the preparation of the amendment to Act No. 7/2002 Coll., on proceedings in the cases of judges, prosecutors and enforcement agents, which aims to implement the recommendations made by GRECO, on 18 May 2023 at the Ministry of Justice.<sup>28</sup> In addition to the Minister of Justice and the Ministry's representatives, the meeting was attended by the President of the Supreme Administrative Court, the Deputy President of the Supreme Court, the President of the Judges' Union, the Presidents of the High Courts, the Supreme State Prosecutor and the Chief State Prosecutors. The draft amendment has already gone through the inter-ministerial comment procedure and will now be considered by the Government's Legislative Council at its meeting on 14 December 2023.

A major strengthening of civil society participation compared to previous years took place in the area of anti-corruption legislation. The Government's Council for the Coordination of the Fight against Corruption, whose members include, among others, representatives of non-governmental non-profit organisations, including the anti-corruption organisations Transparency International, Rekonstrukce státu, Nadační fond proti korupci and Oživení, met twice in 2023, on 25 April 2023 and 21 November 2023, under the leadership of its chairman and Minister of Legislation Michal Šalomoun. The Council adopted many recommendations on the draft law amending Act No. 283/1993 Coll. on the Public Prosecutor's Office and the draft law on lobbying.<sup>29</sup>

### **Transparency and quality of the legislative process both in the preparatory and the parliamentary phase**

Plenary and committee meetings of both chambers of the Parliament are open to the public unless specified otherwise. No restrictive measures in physical accessibility of the public due to the protection of members of Parliament against COVID-19 had been applied during the year 2023.

Stenographic records from plenary meetings of the Chamber of Deputies and the Senate are placed on the websites of both chambers of the Parliament. Meetings of both chambers are broadcasted online in real-time and it is possible to find voice or video records from past meetings as well. The Chamber of Deputies offers 5 stream online channels where are broadcasted committees meetings, press conferences or seminars/conferences/round tables.

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<sup>27</sup> See section 144 of Act no. 107/1999 Coll., Rules of Procedure of the Senate.

<sup>28</sup> Pavel Blažek s představiteli justice jednal o připravovaném návrhu na změny výpočtového koeficientu pro stanovení platové základny soudců a návrhu zákona o kárné odpovědnosti. Press release of the Ministry of Justice. See: [https://justice.cz/web/msp/tiskove-zpravy?clanek=pavel-blazek-s-predstaviteli-justice-jednal-o-pripravovanem-navrhu-zmeny-vypoctoveho-koeficientu-pro-stanoveni-platove-zakladny-soudcu-a-navrhu-zakona&fbclid=IwAR2RWSnT9DZRVh9N12p5ZL1Nj9Ct\\_iMh9jb2frj5ODvOUIRcNim1vbSYPAo](https://justice.cz/web/msp/tiskove-zpravy?clanek=pavel-blazek-s-predstaviteli-justice-jednal-o-pripravovanem-navrhu-zmeny-vypoctoveho-koeficientu-pro-stanoveni-platove-zakladny-soudcu-a-navrhu-zakona&fbclid=IwAR2RWSnT9DZRVh9N12p5ZL1Nj9Ct_iMh9jb2frj5ODvOUIRcNim1vbSYPAo)

<sup>29</sup> The protocol of the 27th meeting of the Government Council held on 25 April 2023. See at: <https://korupce.cz/wp-content/uploads/2023/06/Zaznam-z-27.-jednani-Rady-vlady-konaneho-dne-25.-dubna-2023.pdf>

Committees of the Chamber of Deputies and the Senate usually publish on their official websites invitations to their meetings, brief written minutes of the meeting<sup>30</sup> and resolutions adopted during the meeting. The practice to publish audio recordings (in mp3 format), presentations or relevant documents on websites of committees after every meeting is currently followed by majority of committees of the Chamber of Deputies. The practice to release automatically audio recordings of committee meetings is not common in the Senate.

Deliberations of subcommittees of the Chamber of Deputies are generally not accessible to the public if the subcommittee does not decide otherwise.<sup>31</sup> Committees of the Chamber of Deputies and the Senate may establish subcommittees to deal with a particular issue or set of issues. Subcommittees have an advisory function only. Subcommittees of the Chamber of Deputies usually publish on their official websites invitations to their meetings and often resolutions adopted during the meetings. Subcommittees of the Senate publish on their official websites invitations to their meetings, resolutions adopted and brief written minutes of the meeting.

The strengthening of transparency of the legislative process is a process, which is still ongoing. The transparency of the legislative process should be significantly strengthened thanks to the use of the system [e-Legislativa](#) in future. The system is connected to the project e-Sbírka, which serves as the official Collection of Laws from 1 January 2024. The beginning of official operation of tools e-Legislativa and e-Sbírka for the general public is linked to the entry into effect of Act No. 222/2016 Coll. on the Collection of Laws and International Treaties, however, e-Legislativa will be introduced into full operation gradually (from 1 July 2024 to 1 January 2025).

In relation to the entry into effect of a new Act on Collection of Laws and International Treaties after January 2024, the general public will enjoy greater clarity concerning legal order and their obligations as the explanatory reports of newly adopted laws will have to contain a list of public law obligations arising from them.<sup>32</sup>

Regarding transposition of the EU directives, the amendment to the Government's Legislative Rules enshrined the necessity to justify non-minimalist implementation, which should limit the so-called "gold-plating" of directives.

### **Initiatives that can make the legislative process more transparent in the future**

An operational lobbying regulation might further contribute to fully transparent legislative process (see q. 24 and RRF reporting). Currently, the draft law on lobbying is expected to be discussed by the Government.

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<sup>30</sup> Sections 43 and 47 of the Rules of Procedure of the Chamber of Deputies stipulate that all committees and commissions of the Chamber of Deputies produce brief written minutes regarding every committee meeting. If the committee or commission meeting was held in public, the minutes shall be made public in a manner allowing remote access. The Rules of Procedure of the Senate in its section 95 and 97 states as a rule that minutes shall be taken of meetings of committee or commissions respectively. Rules of Procedure of the Senate lacks regulation concerning the publishing of the minutes, however, the Senate committees and commissions generally publish online minutes recorded on meetings.

<sup>31</sup> See section 44 (3) of the Rules of Procedure of the Chamber of Deputies. Subcommittees of the Senate are accessible to the public, if the act or subcommittee does not decide/stipulate otherwise. See section 97a in connection with section 90 of Act no. 107/1999 Coll., on the Rules of Procedure of the Senate.

<sup>32</sup> See section 19 of Act No. 222/2016 Coll. on Collection of Laws and International Treaties.

**46. Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions).**

In the Czech Republic, there are two basic ways how to accelerate legislative process – 1) procedure of adopting acts in a state of legislative emergency (in Czech *stav legislativní nouze*) and 2) a procedure of adopting act in the first reading (fast track procedure).

The following table shows differences in numbers of promulgated acts approved in different legislative regimes as counted according to the calendar year in which they were promulgated in the Collection of Laws:

Promulgated in the Collection of Laws			
	Calendar year 2021	Calendar year 2022	Calendar year 2023
All bills passed	89	84	91
Fast track bills (procedure of adopting acts in the first reading)	11	20	17
Bills passed in a state of legislative emergency	15	18	2

The majority of acts adopted in the year 2023 were approved in the regular regime.

Additional 17 acts were approved in the fast track procedure. Here is important to mention that the procedure of adopting acts in the first reading (fast track regime) is used even during times when there was no emergency need. The procedure of adopting acts in the first reading is used even in cases of non-controversial bills having wide support for the bill across political parties.

There were two acts approved in the state of legislative emergency during the year 2023. The first of them consisted in prolongation of the regime of protection of Ukrainian refugees.<sup>33</sup> The second act approved in the state of legislative emergency consisted in partial limitation of pension indexation.<sup>34</sup> The government reasoned the use of the state of legislative emergency by danger of significant economic damage to the state without passage of the bill. The use of the emergency legislative procedure was challenged by a group of MPs before the Constitutional Court on 5 May 2023.<sup>35</sup> The case is still under consideration before the Constitutional Court.<sup>36</sup>

As regards the legislative process at government level, legislative materials are prepared and submitted by ministries and other central administrative authorities. In preparing these proposals, the submitters must comply with the Government's Legislative Rules, which regulate the requirements for the content and form of the legislation being prepared. The legislative process continues with the submission of the draft legislation to the inter-ministerial comment procedure and later to the

<sup>33</sup> Sněmovní tisk 351. Novela z. o někt. opatř. v souv. s ozbroj. konf. – Ukrajina. See: <https://www.psp.cz/sqw/historie.sqw?o=9&t=351>

<sup>34</sup> Sněmovní tisk 392. Novela z. o důchodovém pojištění. See: <https://www.psp.cz/sqw/historie.sqw?o=9&T=392>

<sup>35</sup> Pl. ÚS 30/23. NALUS. See: [https://nalus.usoud.cz:443/Search/GetText.aspx?sz=PI-30-23\\_1](https://nalus.usoud.cz:443/Search/GetText.aspx?sz=PI-30-23_1)

<sup>36</sup> K valorizaci důchodů proběhne veřejné jednání. Ústavní soud zveřejnil dosavadní stanoviska stran. See: <https://www.usoud.cz/aktualne/k-valorizaci-duchodu-probehne-verejne-jednani-ustavni-soud-zverejnil-dosavadni-stanoviska-stran>

Government's Legislative Council for discussion. The final stage of the legislative process for legislation proposed by the Government is its approval by the Government.

### **The Inter-ministerial Comment Procedure**

The body that has drafted the legislative material shall enter it into the eKLEP electronic library of the ODok information system of the Office of the Government (hereinafter referred to as the "electronic library"), together with information on the deadline for submitting comments. The deadline for submitting comments shall be 20 working days from the date of uploading to the eLibrary in the case of a draft law and 15 working days in the case of a draft white paper, draft government regulation and draft ministerial decree, unless the body submitting the draft legislative material for comments sets a longer deadline.

If the Government imposes the drafting of a draft law or draft government regulation on grounds of urgency within a time limit which does not allow the above deadline to be met, the authority submitting the draft for comments shall set a deadline for the submission of comments; however, this deadline may not be shorter than 5 working days. Exceptionally, the Chairman of the Government's Legislative Council (Michal Šalomoun) may, on the proposal of a member of the Government or the head of another central government body, change the time limits for the inter-ministerial comment procedure in individual cases, restrict the range of commenting bodies or stipulate that the inter-ministerial comment procedure shall not be carried out. The Chairman of the Government's Legislative Council may also decide not to carry out a regulatory impact assessment in accordance with the General Principles for Regulatory Impact Assessment (RIA).

Commenting bodies may submit substantial or recommendatory comments on the draft white paper, the draft law and the draft government regulation. Only the commenting bodies referred to in Article 5(1)(a) to (c), (g) and (h) of the Government Legislative Rules may make substantial comments.<sup>37</sup> If the body which has submitted the draft legislative material for comments does not intend to comply with a comment identified as substantial, the comment shall become the subject of a dispute. Other comments not marked as such are regarded as mere proposals and shall not be considered to be the subject of a dispute if the body which submitted the draft legislative material for comments does not comply with them.

The authority which has submitted the draft legislative material for comments shall discuss with commenting bodies the comments made by them, if it considers it necessary. However, the comments which have become the subject of a dispute must always be discussed with the commenting bodies. Care shall be taken to ensure that no conflict arises with another commenting body when the dispute is resolved. If the conflict cannot be resolved even at the level of the deputies, the conflict shall be resolved by the member of the Government or the head of another central government body that submits the legislative material with another member of the Government, the head of another central government body or the relevant senior official of the commenting body. If the dispute cannot be resolved in this way, the draft legislative material is to be submitted to the Government for a resolution.

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<sup>37</sup> These are ministries, other central administrative authorities and the Compatibility Department of the Office of the Government. Furthermore, it can apply also to local authorities, and trade unions and employers' organisations insofar as legislative proposals concern their field of interest. See čl. 5 odst. 1 [https://vlada.gov.cz/assets/ppov/lrv/legislativn\\_pravidla\\_vl\\_dy.pdf](https://vlada.gov.cz/assets/ppov/lrv/legislativn_pravidla_vl_dy.pdf)

In the case of the draft ministerial decree, the possibility of applying comments marked as substantial is not provided for, or there are no consequences associated with such a marking. Thus, no comment can become the subject of a dispute.

In 2023, there was a significant reduction in the number of inter-ministerial comment procedures, which did not take place within the standard length of the Government's Legislative Rules or even at all. Thus, a more positive development can be observed, after the number of shortened or waived inter-ministerial comment procedures in 2022 surpassed the previous record level set in 2020.

Although the number of legislative materials for which inter-ministerial comment procedures were not carried out or were shortened has fallen substantially in the past year, this is still almost double the number in 2019 compared to 2023. In fact, in 2019, the inter-ministerial comment procedure was waived or shortened in only 59 cases.

The reasons for such a high number in 2023 still lie in tackling the consequences of previous crises. Namely the need to increase the efficiency of the management of the influx of refugees from Ukraine, the need to provide rapid assistance to citizens at risk of poverty as a result of increased energy prices or high inflation, the consolidation of public finances in relation to the pension system and the need to speed up the transposition of several EU directives into the Czech legal system.

Submitting body of government	2020		2021		2022		2023	
	Regular IRPs	Shortened and waived IRPs	Regular IRPs	Shortened and waived IRPs	Regular IRPs	Shortened and waived IRPs	Regular IRPs	Shortened and waived IRPs
MD	13	4	11	3	16	3	16	1
MF	25	35	20	24	19	19	27	10
MK	3	2	1	4	3	2	6	0
MMR	10	8	1	4	6	7	6	3
MO	2	5	4	6	2	11	4	5
MPO	18	14	20	16	27	25	22	9
MPSV	12	17	13	20	26	31	7	22
MSp	16	9	17	4	18	7	14	6
MŠMT	13	9	4	1	7	4	9	4
MV	17	28	15	16	25	29	22	12
MZd	13	28	17	29	22	17	23	8
MZe	39	3	18	6	37	5	26	3
MZV	1	0	1	1	0	4	1	3
MŽP	23	1	14	7	16	3	11	4
ÚVČR	2	0	0	2	0	1	6	0
<b>TOTAL</b>	<b>207</b>	<b>163</b>	<b>156</b>	<b>143</b>	<b>224</b>	<b>168</b>	<b>200</b>	<b>90</b>

*Table: Summary of regular IRPs and shortened and waived IRPs between 2019 and 2023. We present the numbers with a reservation as for their accuracy and completeness of the set of data, as they are not collected systematically.*

The above table provides an overview of the regular, shortened and inter-ministerial comment procedures only for central government bodies headed by a member of the Government and the Office

of the Government of the Czech Republic. Furthermore, the table does not take into account inter-ministerial comment procedures with a limited range of commenting bodies.

**47. Rules and application of states of emergency (or analogous regimes), including judicial review and parliamentary oversight.**

During the year 2023, state of emergency (*nouzový stav*) was not declared.

Concerning the state of emergency, the Chamber of Deputies has oversight competence. The Senate has no special oversight competence over the emergency regime. The state of emergency as such is regulated by sec. 5 - 6 of the constitutional Act No. 110/1998 Coll. on the Security of the Czech Republic (Act on the Security) in connection with Act No. 240/2000 Coll. on Crisis Management.<sup>38</sup>

Please note that the state of emergency (*nouzový stav*) and the state of legislative emergency (*stav legislativní nouze*) are different procedures. The state of legislative emergency is related to the possibility of accelerated procedure of decision-making of the Chamber of Deputies (see above). The state of emergency is an emergency regime. The state of legislative emergency may be declared even without the proclamation of a state of emergency and conversely.

**48. Regime for constitutional review of laws**

During 2023, no amendments or reforms were adopted that would affect the constitutional review of laws, specifically Act No. 182/1993 Coll. on the Constitutional Court. The Constitutional Court Act was amended only once, by Act No. 349/2023 Coll. on Amending Certain Acts in Connection with the Consolidation of Public Budgets, and this amendment concerned only the regulation of the payment of a procedural fine (see § 61 (2) Act No. 182/1993 Coll. on the Constitutional Court. See: <https://aplikace.mvcr.cz/sbirka-zakonu/ViewFile.aspx?type=c&id=39736>

Act on the Constitutional Court has been previously changed by amendment<sup>39</sup> which entered into effect on 1 January 2024. This amendment will adapt Act on the Constitutional Court to changes in the new Act No. 222/2016 Coll. on Collection of Laws and International Treaties which will enter into effect on 1 January 2024.

**B. Independent authorities**

**49. Independence, resources, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions**

As for the recommendation to take steps to establish a National Human Rights Institution, the amendment to the Ombudsperson Act has been presented for inter-ministerial comment procedure in summer 2023. Due to the extensiveness and complexity of the comments, the amendment has not yet moved forward. The amendment introduces the necessary changes to enable the accreditation of the Ombudsperson as the Czech NHRI. Besides, the amendment also introduces a special Ombudsperson for children to support the protection of their rights. Other competencies of the

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<sup>38</sup> Act No. 110/1998 Coll. on the Security of the Czech Republic (unofficial translation). See on: [https://www.usoud.cz/fileadmin/user\\_upload/ustavni\\_soud\\_www/Pravni\\_uprava/AJ/Zakon\\_o\\_bezpecnosti\\_English\\_version\\_110\\_1998.pdf](https://www.usoud.cz/fileadmin/user_upload/ustavni_soud_www/Pravni_uprava/AJ/Zakon_o_bezpecnosti_English_version_110_1998.pdf). Please note that translation of Chamber of Deputies and Assembly of Deputies have equivalent meaning.

<sup>39</sup> Act No. 277/2019 Coll. amending certain acts in connection with the adoption of the Act on the Collection of Laws and International Treaties



Ombudsperson remain unchanged, including the equality body. (see <https://odok.cz/portal/veklep/material/ALBSCSSKUT84/>)

**50. Statistics/reports concerning the follow-up of recommendations by National Human Rights Institutions, ombudsman institutions, equality bodies and supreme audit institutions in the past two years.**

The Ombudsperson continues to assess the implementation of its their past recommendation in their annual reports. In the last published report from 2022, he assessed 3 recommendations out of 13 made in 2020 as implemented and one partially implemented. From the 3 recommendations made in 2021, none has been implemented yet. 6 new recommendations have been made in 2022 whose implementation will be assessed in the coming years.<sup>40</sup>

**C. Accessibility and judicial review of administrative decisions**

**51. Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data)**

Since there was no substantial change in comparison with the previous year, Czechia refers to its written input provided for the 2022 Rule of Law Report.

**52. Judicial review of administrative decisions:**

**- short description of the general regime (in particular competent court, scope, suspensive effect, interim measures, and any applicable specific rules or derogations from the general regime of judicial review).**

No new information.

**53. Rules and practices related to the application by all courts, including constitutional jurisdictions, of the preliminary ruling procedure (Art. 267 TFEU)**

Czech courts regularly use the preliminary ruling procedure, there were 47 such requests submitted in 2018 – 2022 (please see statistical data of the CJEU). In 2023, there were 7 such requests submitted by Czech Courts.

**54. Follow-up by the public administration and State institutions to final (national/supranational, including the European Court of Human Rights) court decisions, as well as available remedies in case of non- implementation**

There are no changes to the information provided in the 2022 Report.

**D. The enabling framework for civil society**

**55. Measures regarding the framework for civil society organisations and human rights defenders (e.g. legal framework and its application in practice incl. registration and dissolution rules)**

There were no changes for registration, merge or dissolution of CSOs/NGOs in the Civil Code No. 89/2012 Coll. (there were only changes concerning consumer protection in 2023) and the Act No

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<sup>40</sup> See [vyrocni-zprava-2022.pdf](#) (ochrance.cz) p, 10-19.



3/2002 Coll., on freedom of religion and the position of churches and religious societies and amending certain acts (on churches and religious societies).

The Civil Code No. 89/2012 Coll. took legal effect in 2014. The Government Council for Non-Governmental Non-Profit Organizations (NGOs) together with representatives of CSOs/NGOs intend to organize discussion on the Implications of the Civil Code to Civil sector over last 10 years.

***56. Rules and practices having an impact on the effective operation and safety of civil society organisations and human rights defenders. This includes measures for protection from attacks – verbal, physical or on-line –, intimidation, legal threats incl. SLAPPs, negative narratives or smear campaigns, measures capable of affecting the public perception of civil society organisations, etc. It also includes measures to monitor threats or attacks and dedicated support services.***

In 2023 the Government Commissioner for Human Rights continued to spread awareness about the importance and significance of CSOs/NGOs, see e.g. her official Facebook account <https://www.facebook.com/laurencikova.zmocnenkyne>. Her activities fulfil the goal concerning improving the societal climate for CSOs activities which is defined in the Government's Strategy for Cooperation Between Public Administration and NGOs 2021-2030 (see also answer to question 59).

***57. Organisation of financial support for civil society organisations and human rights defenders (e.g. framework to ensure access to funding, and for financial viability, taxation/incentive/donation systems, measures to ensure a fair distribution of funding)***

The Expert Group on systemic change in funding of public benefit services was established on June 28, 2022 by the Government Council for NGOs. The Expert Group has a two-year mandate and is composed of 14 representatives of respective ministries and 14 experts from non-profit sector. The task is to evaluate the current system of financing publicly beneficial services and activities and to initiate a systemic change in financing that will lead to a more efficient and simplified funding of publicly beneficial services and activities provided by CSOs. So far, 13 key issue areas have been identified to be addressed. All 13 areas were incorporated in 8 thematic task forces. Task forces presented their ongoing results at the meeting of Dec 2023 to Expert Group, see [https://vlada.gov.cz/cz/ppov/rnno/ex\\_skup\\_fin/expertni-skupina-k-systemove-zmene-financovani-verejne-prospernych-sluzeb-a-cinnosti-ze-statniho-rozpoctu-198755/](https://vlada.gov.cz/cz/ppov/rnno/ex_skup_fin/expertni-skupina-k-systemove-zmene-financovani-verejne-prospernych-sluzeb-a-cinnosti-ze-statniho-rozpoctu-198755/).

By its Resolution No. 452 of 21 June 2023, the Government approved the **Main Areas of State Subsidy Policy towards Non-State Non-Profit Organisations** in Support of Public Benefit Activities for 2024 (<https://vlada.gov.cz/cz/ppov/rnno/dokumenty/hlavni-oblasti-statni-dotacni-politiky-vuci-nejstatnim-neziskovym-organizacim-pro-rok-2024-206824/>). In light of the government's so-called Consolidation package for 2024 the updating data from November 2023 for 2024 show changes in number of programs and some allocations. Only few programs financed by the Government got higher financial support by the State budget. Amounts for equal opportunities for women and men and the fight against corruption were slightly reduced. Majority of state programs stay at the level indicated in April 2023 or got lower financial support. Despite of this, overall financial support to NNOs from State budget increased up to 7.4 billion CZK.

The Ministry of Interior has been working on **the amendments to Act No 117/2001 Coll., Act on Public Collections** and on Amendments to Certain Acts (Act on Public Collections) in 2023 while taking into account the recommendations conducted by the Government Council for NGOs mentioned in the 2023 Rule of Law Report. The draft was in the inter-ministerial comment procedure and was submitted to the Government at the end of October 2023.

As mentioned in the 2023 Rule of Law Report the conditions for reducing the taxable base of a public-benefit taxpayer are laid down in Section 20 par. 7 of the Act No 586/1992 Coll., on **income tax**, as amended. The Act covers any tax exemptions for income from donations (gratuitous transactions). The limit for deduction of gifts from the taxable base for both natural and legal persons was raised, for **natural persons, the limit for the deduction went up from 15 % to 30 %** and for **legal persons, the limit for the donation deduction went up from 10 % to 30 %**. These limits were again extended by the changes (as part of so called Consolidation package) of Act No. 128/2022 Coll. for a calendar year 2023, respectively for tax periods that ended between 1 March 2022 and 29 February 2024.

The **Working group on Private Donation** has been working in 2023 and focusing on the development of private donations which is one of the specific goals of the Strategy for Cooperation Between Public Administration and NGOs 2021-2030, specifically the working group is concentrating on motivation of private law entities to provide non-financial donations (non-saleable goods intended for disposal) for public benefit purposes. See more <https://vlada.gov.cz/cz/ppov/rnno/psksd/pracovni-skupina-k-soukromemu-darcovstvi-208559/>. Project intent has been submitted to Technology Agency of the Czech Republic to get a better (and evidence-based) overview of the donation based on available data from tax returns of individuals and legal entities.

***58. Rules and practices on the participation of civil society organisations and human rights defenders to the decision-making process (e.g. measures related to dialogue between authorities and civil society, participation of civil society in policy development and decision-making, consultation, dialogues, etc.)***

On 15 February 2023, the Action Plan of the Czech Republic Open Government Partnership for 2023 to 2024 (see <https://korupce.cz/wp-content/uploads/2023/02/Action-Plan-of-the-Czech-Republic-Open-Government-Partnership-for-2023-to-2024.pdf>) was approved by the Government that includes following commitments:

- 4.1 Pilot implementation of the Methodology for the Participation of Non-governmental Non-profit Organisations in advisory and working bodies and in the drafting of state administration documents;*
- 4.2 Improving the status of whistleblowers, including raising awareness of whistleblowing;*
- 4.3 Open data on education and the educational system;*
- 4.4 Expanding and making available data in the Strategy Database system;*
- 4.5 Involvement of the public in the monitoring of public procurement;*
- 4.6 Increasing transparency and methodical support for the awarding of small-scale public contracts;*
- 4.7 Transparency of grants provided by the state;*
- 4.8 Improving the quality of beneficial ownership records data - analysis and proposal of measures.*

The implementation of the afore-mentioned action plan is regularly monitored and information is published at: <https://korupce.cz/partnerstvi-pro-otevrene-vladnuti-ogp/narodni-akcni-plan-nyap/sesty-akcni-plan-2023-2024/faze-implementace/>.

As mentioned in the 2023 Rule of Law Report the **Methodology of the participation of NGOs in working and advisory bodies of the central authorities and in creation of their policy documents** (Methodology) started to be implemented in 7 ministries (subsequently the Ministry of the Interior stood back) and in the Unit of the Secretariat of the Government Council for NGOs, see <https://korupce.cz/partnerstvi-pro-otevrene-vladnuti-ogp/narodni-akcni-plan-nyap/sesty-akcni-plan-2023-2024/faze-implementace/4-1-pilotni-implementace-metodiky-participace-nestatnich-neziskovych-organizaci-v-poradnich-a-pracovnich-organech-a-pri-tvorbe-dokumentu-statni-spravy/>.

All involved ministries have been testing Methodology over the 2023 to provide Unit of the Secretariat of the Government Council for NGOs with the interim report on testing Methodology by the end of 2023. The Methodology is implemented in the activities of the **Committee for the EU of the Government Council for NGOs**. The committee intensively focuses on supporting the engagement of CSOs in implementation of EU funds operational programmes and in the Czech RRP.

In total, it was possible to fill a total of 72 positions (40 members, 31 substitutes and 1 guest) in 35 platforms on the basis of open calls announced by the Unit of the Secretariat of the Government Council for NGOs, a total of 43 people, as some work in more than one platform (see [https://www.vlada.cz/cz/ppov/rnno/platformy\\_pro\\_implementaci\\_fondu\\_eu/zastoupeni-rady-vlady-pro-nestatni-neziskove-organizace-v-platformach-pro-implementaci-fondu-eu-203568/](https://www.vlada.cz/cz/ppov/rnno/platformy_pro_implementaci_fondu_eu/zastoupeni-rady-vlady-pro-nestatni-neziskove-organizace-v-platformach-pro-implementaci-fondu-eu-203568/)).

The Committee together with Secretariat, is currently trying to ensure that Council representatives have quality support and that they do not only represent their own opinion, but are able to represent the non-profit sector in a representative manner. Project intent based on such idea have been developed and submitted to the Operational Programme Technical Assistance. The non-profit sector also has the representation in the Working Group for Cohesion Policy 28+.

## ***E. Initiatives to foster a rule of law culture***

### ***59. Measures to foster a rule of law culture (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, contributions from civil society, education initiatives, etc.)***

During the year 2023, the number of seminars, debates or similar types of sessions which took place in both chambers of Parliament was high, mostly in comparison with previous years which were negatively affected by limitations related to the pandemic. Several events were organized which tackled issues which form pillars of the rule of law. Some of them were focused on a presentation of the current regulation or practice, others on a discussion of possible changes or criticism of the current state of affairs. As examples could serve the following events:

- Seminar on the protection of whistleblowers: practical experience from the Czech Republic, application of the law in municipalities, companies, authorities and other organizations (Chamber of Deputies, 31 January 2023)<sup>41</sup>

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<sup>41</sup> Seminář s názvem Ochrana oznamovatelů: praktické zkušenosti z ČR, aplikace zákona v obcích, firmách, úřadech a dalších organizacích. See: <https://www.psp.cz/sqw/cms.sqw?z=17003>

- Round table on the sustainability of (not only) public service media funding (Chamber of Deputies, 12 April 2023)<sup>42</sup>
- Seminar on the topic of (In)Justice in the Czech justice system and its excesses (Chamber of Deputies, 13 April 2023)<sup>43</sup>
- Seminar on the topic of freedom of speech and freedom after speech (Senate, 23 May 2023)<sup>44</sup>
- Round table on funding of public service media (Senate, 12 June 2023)<sup>45</sup>

Both chambers of the Parliament organize seminars for students focusing on issues such as the functioning of the Czech democracy and an explanation of the role of Parliament in the democratic system.

The conference on the 75th anniversary of the Universal Declaration of Human Rights “**Human Rights and Czechia. Dignity. Equality. Participation.**” organized by the Government Commissioner for Human Rights in cooperation with the Gender Equality Department, Department of Human Rights and Minority Protection of the Office of the Government of the Czech Republic and the United Nations Information Centre Prague (December 11-12, 2023) provided space to discuss the promotion of human rights and gender equality, see [https://www.tojrovnost.cz/cs/konference-lidska-prava-a-cesko/?utm\\_source=ecomail&utm\\_campaign=2023\\_10\\_24\\_pozvanka\\_na\\_konferenci\\_Lidska\\_prava\\_a\\_Cesko&utm\\_medium=email&utm\\_term=2959&ecmid=2419](https://www.tojrovnost.cz/cs/konference-lidska-prava-a-cesko/?utm_source=ecomail&utm_campaign=2023_10_24_pozvanka_na_konferenci_Lidska_prava_a_Cesko&utm_medium=email&utm_term=2959&ecmid=2419). On this occasion the Prize of the Government Commissioner for Human Rights honouring significant initiatives and individuals participating in the promotion of human rights in the Czech Republic was awarded for the first time.

Workshop on Citizens, NGOs and other Stakeholders participation was held on Dec 13, 2023. The Office of the Government, in cooperation with Ministry of Interior and OECD organized workshop on **implementation of the findings and recommendations of the report OECD Public Governance Review** of the Czech Republic in the area of Citizen and other Stakeholder Participation. Workshop was designed for representatives of the Czech public administration. Similar events were organized for representatives of Civil sector.

Seminar on NHRI:

[https://www.ochrance.cz/aktualne/v\\_kancelari\\_ombudsmana\\_budou\\_o\\_moznem\\_vzniku\\_ceske\\_na\\_rodni\\_lidskopravni\\_instituce\\_nhri\\_v\\_pondeli\\_diskutovat\\_odbornici\\_na\\_ochranu\\_lidskych\\_prav\\_ze\\_s\\_edmi\\_evropskych\\_statu/](https://www.ochrance.cz/aktualne/v_kancelari_ombudsmana_budou_o_moznem_vzniku_ceske_na_rodni_lidskopravni_instituce_nhri_v_pondeli_diskutovat_odbornici_na_ochranu_lidskych_prav_ze_s_edmi_evropskych_statu/)

Seminar on ethics of judges as a prevention of corruption:

<https://eeagrants.cz/cs/programy/radna-sprava/aktuality/2023/moralni-dilemata-soudcu-a-statnich-zastu-4245>

<sup>42</sup> Kulatý stůl: Udržitelnost (nejen) financování médií veřejné služby. See: <https://www.psp.cz/sqw/cms.sqw?z=17318>

<sup>43</sup> Seminář (Ne)Spravedlnost v české justici a její excesy (April 13, 2023). See: <https://www.psp.cz/sqw/hp.sqw?k=4006&td=19&cu=5>

<sup>44</sup> POZVÁNKA NA SEMINÁŘ: Svoboda projevu a po projevu. See: <https://www.senat.cz/xqw/webdav/pssenat/original/107976/90601>

<sup>45</sup> Kulatý stůl Financování médií veřejné služby (June 12, 2023. See: <https://www.senat.cz/cinnost/galerie.php?aid=36077>

Conference on the implementation of the human rights obligations: Making Human Rights a reality:  
<https://konference.mezisoudy.cz/en/>, recording:  
<https://www.youtube.com/watch?v=nF5SdMFxnbk>

***Other – please specify***

***Annex to q. 20:***

Beyond the official summary input, the Czech Republic would like to make an even more detailed input regarding question 20, on how our national authorities cooperate with national authorities in other countries in cases with a cross-border element. Its purpose is to illustrate the practical difficulties of cross-border cooperation due to incompatible systems.

In this context, we will focus on obstacles to this cooperation. This concerns mutual cooperation on the basis of various international treaties and other legal standards, in particular under the Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the EU Member States, currently being replaced by Directive (EU) 2023/977 of the European Parliament and of the Council of 10 May 2023 on the Exchange of information between the law enforcement authorities of member states and repealing the Council Framework Decision 2006/960/JHA.

The above statement is based on our current experience of using international police cooperation channels:

1. Capacity possibilities of individual channels of cooperation:

Each of the channels of cooperation has its own capacity options that directly affect the speed of handling a specific request. Depending on the type of information requested, there may be a short or long-term cumulation of interest-based information requirements. Examples include obtaining information from electronic payment service providers, digital banks or cryptocurrency service providers, which cannot be addressed through a direct request (or the requesting authority does not respond to such a form of query or refer to communication through the police authorities of the state where the entity is located (typically the Baltic States). The ability to meet any time limits for handling requests, in particular in the case of urgent requests, is a limiting factor as well (e.g. in the framework of cooperation between AROs there is not an ordinary 24/7 regime). A limiting factor, especially in cases of payment fraud and money laundering, is also the capacity capabilities of FIUs, which are, however, generally established and operational.

2. Using the official channel of cooperation does not automatically mean the most effective approach:

The use of the authorities of the requested state is preferred as in most cases, it is efficient and brings a significant added value (e.g. access to a wider range of information, information from non-public databases, the undisputable procedural usability of the information). In some cases, if, under the circumstances of the case and based on previous experience, the efficient law enforcement cooperation cannot be expected, other channels can be used as complementary sources of information. In practice, voluntarily provided information from specific non-state entity (typically cryptocurrency exchanges or electronic payment service providers) or information available in/based on open sources (typically business or cadastral registers) also are a valuable channel, while also respecting the national sovereignty of a respective Member State and appropriate rules for taking evidence.

3. Difficult availability/unavailability of specific information in the destination state (usually subject to a higher level of protection – personal data/bank secrecy/disclosure):

The availability of a specific type of information varies widely across target jurisdictions. The unavailability of specific information in the country of destination (possibly limited availability only through international judicial cooperation) often constitutes a serious obstacle not only to the clarification of the case and the identification of the offender or other person of interest, but also makes it impossible to make partial decisions and effectively determine the way forward in the case. In particular, in the case of financial information, the severely limited ability to monitor financial flows and the movement of criminal funds with regard to their tracing and detention capabilities, as well as the rapid development of electronic payment and alternative payment technologies, is an important obstacle. For example, in Switzerland, any bank account information is completely unavailable through police cooperation.

4. Different levels and possibilities of cooperation between national authorities in specific jurisdictions:

See paragraph 3 – a more efficient and reliable channel or instrument of international cooperation cannot compensate for the different possibilities of national authorities in obtaining specific information, defined in particular by national legislation. For example, a bank statement or bank account balance can be accessed much more efficiently and faster in some countries – directly through police cooperation (Slovakia, France) or solely through international judicial cooperation. In particular, in the early stages of investigations, where the authorities collect information for the purpose of evidence and subsequent actions, e.g. seizure of assets, the possibility for police authorities to obtain, in particular, financial information from abroad remains very limited. The possibility to quickly identify the owner of an interest bank account through police cooperation without the possibility of obtaining information about the current state of the funds significantly reduces the practical usability of such information.

5. A particular problem is the low effectiveness of monitoring of financial flows due to the minimum availability of specific details of financial transactions within a reasonable time:

Central registers of accounts of most EU countries contain only the very basic information about bank accounts for the needs of users. However, from the point of view of the law enforcement authorities, the key superstructure (data on balances or bank account movements) is missing.

6. The possibilities of obtaining information on financial flows for the purposes of criminal proceedings compared to the speed of the movement of funds are completely insufficient:

See previous points – in the case of an ongoing crime, it is crucial to obtain this information as soon as possible. The requested police authority then either secures the data itself from a third party or through their judicial authority in the framework of international judicial cooperation. However, any delay will make it more difficult or slow down the procedure of the requesting police authority in criminal proceedings.

7. To receive certain types of information, an intervention of a judicial authority in the country of destination is necessary:

The requested police authority shall transmit the requested information to the requesting police authority on the basis of the consent of their national judicial authority (Hungary) or, if it is unable to deal with the request, refers to the procedure through international judicial cooperation. This is a procedure for obtaining bank data or data from tax proceedings.

8. Adherence to formal requirements and procedures for sending a request can be counterproductive (also in cases where the authorities of both parties have good will to cooperate, but there is no alternative to the procedure):

In practice, there were repeated cases where the judicial authority of the requested state (namely the United Kingdom) refused to deal with a request for international legal assistance, stating that the requested information should have been obtained by the requesting state in another way (here through police cooperation). Aside from the fact that it is often impossible to choose such a procedure (e.g. if it is necessary to obtain specific information by questioning a person in the requested state or the requested state does not provide the information by means of police cooperation), the requirement to ensure the procedural applicability of the requested information in proceedings before a court given by the law of the requesting state does not allow any other alternative to the procedure of the national authorities. At the same time, practice shows cases where the police authorities of the requested state (Ireland) in the past did not reflect on requests for information by means of police cooperation, not being able to handle it themselves (they cannot independently request information on bank accounts) and referred to the possibility of direct contacting the entity in possession of the relevant information (the provider of electronic payment services).

9. Different speed of requests processing:

Some of the requested police authorities respond fairly quickly. In the case of cooperation with specific foreign authorities, there are significant differences as regards the speed of processing the request. A similar type of information can be obtained in a matter of days, weeks and months depending on the requested state. Regarding information from central bank account records, these remain partially or completely unavailable through cooperation between the ARO authorities from some countries (Italy, Poland, Slovakia).

10. The availability of specific information directly affects the effectiveness of criminal proceedings:

See point 4 – identification of the holder of an interest bank account through police cooperation, but without the requesting authority being able to verify quickly and effectively whether funds to be secured are still in the target account, makes the initial information practically worthless in terms of follow-up. The requesting state is either forced to “blindly” request funds in the account (without knowing whether they are there) or must first make a request through international judicial cooperation, which brings an additional delay of at least weeks.

11. In the case of non-cooperative entities or jurisdictions, the possibility of sanctioning them in practice is negligible, which directly devalues the general requirement for law enforcement and the role of law enforcement authorities in the eyes of the public:

The authorities of some states are very reluctant to deal with international police and judicial cooperation obligations or do not respond to requests at all (particularly some African, Middle East, Caribbean or Oceania countries – typically the Cayman Islands, the British Virgin Islands, Belize and others). In some cases, the absence of bilateral treaties makes cooperation completely impossible in practice, including at the level of judicial cooperation in criminal matters. Police cooperation and judicial cooperation in general are also significantly complicated by war conflicts in various regions of the world.